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## ALLEGORY FROM THE CAVE: A STORY ABOUT A MIS-EDUCATED PROFESSION AND THE PARADOXICAL PRESCRIPTION

Ethical Ambition: Living a Life of Meaning and Worth By Derrick Bell  
(Bloomsbury 2002) pp. 183. \$19.95

by  
Natasha T. Martin\*

*This Article reviews Ethical Ambition: Living a Life of Meaning and Worth, by Derrick Bell and juxtaposes Bell's more contemporary critique of the legal profession and practice with the observations of Carter G. Woodson in The Mis-Education of the Negro. The author suggests that the contextual synchronicity of these two works has the potential to dramatically transform the faces of legal education and legal practice and encourage honesty in ethics discourse. In the author's view, Bell and Woodson's works are revolutionary in scope and provide the justification and the framework for a more self integrative law practice. The Article begins with a summary of Bell's and Woodson's works and demonstrates the connections between them in the context of humanizing the study and practice of law. It then places these works in the broader framework of the entire legal enterprise by offering an examination of the six principles Bell explores in Ethical Ambition and discussing how each principle can contribute to the author's proposed blueprint for change. The author then addresses some of the practical constraints of implementing a self-integration perspective into law school curricula and legal practice, and attempts to respond to some of the more poignant questions regarding the recommended paradigm. The Article concludes by highlighting the tremendous benefits to be realized if one acknowledges Woodson's insights and utilizes Bell's principles as beacons to creating a new framework for training lawyers and engaging in the ethical practice of law.*

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\* Assistant Professor of Law, Seattle University; nmartin@seattleu.edu. Special thanks to Janet Ainsworth, Steven Hobbs, Paula Lustbader, and John Mitchell for their guidance, comments, and encouragement through the gestation and labor of this Article and its previous drafts. I thank those who listened, engaged, and inspired me as I developed the ideas that became a part of this Article, including Jacquelyn Bridgeman, Maggie Chon, Ruben J. Garcia, Christian Halliburton, Camille Nelson, Page Rebelo, Dale Rubin, Thomas L. Shaffer, and Ron Slye. I also thank Kerry Fitzgerald for her diligent research services and patience, Seattle University School of Law for the research grants that supported this project, and my administrative assistant Nancy Ammons. An earlier draft of this paper greatly benefited from a presentation at the LatCrit IX Conference in Philadelphia, Pennsylvania. Last, but not least, I thank my husband, Todd Martin, for his love and unwavering support.

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## I. INTRODUCTION

This Article began as a review of one book, *Ethical Ambition: Living a Life of Meaning and Worth*, by Derrick Bell.<sup>1</sup> Ultimately, the Article developed into a convergence of the ideals in two books; the other is *The Mis-Education of the Negro*, by Carter G. Woodson.<sup>2</sup> Although published nearly seventy-five years apart, the contextual synchronicity of these two works has the potential to dramatically transform the faces of legal education and legal practice and encourage honesty in ethics discourse. In short, Bell and Woodson, two profound African-American educators, have provided the justification and the framework for a more self-integrative practice of law.

This Article proceeds as follows. Part II summarizes Bell's and Woodson's works and demonstrates the connections between them in the context of humanizing the study and practice of law. It evaluates the evolution of American legal education and highlights the author's proposition that self-integration deserves a pertinent place in the law's current enterprise. Part III offers an examination of the six principles Bell explores in *Ethical Ambition*.

<sup>1</sup> DERRICK BELL, *ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH* (2002). Derrick Bell also has a website dedicated to *Ethical Ambition* and its ideals, which includes an interview with Bell wherein he addresses his goals in writing the book, the book's principles, and their applicability to corporate responsibility. See <http://www.ethicalambition.com>.

<sup>2</sup> CARTER GODWIN WOODSON, *THE MIS-EDUCATION OF THE NEGRO* (Charles H. Wesley & Thelma D. Perry eds., 2d ed. 1969).

Further, it discusses how each principle can contribute to the blueprint for change set forth in Part II. Part IV addresses some of the practical constraints of implementing a self-integration perspective into law school curricula and legal practice, and attempts to respond to some of the more poignant questions regarding the recommended paradigm. Additionally, it highlights the tremendous benefits to be realized if one acknowledges Woodson's insights and utilizes Bell's principles as beacons to creating a new framework for training lawyers and engaging in the ethical practice of law.

## II. BELL AND WOODSON—CONTEXT, CONVERGENCE, AND CATALYSTS FOR CHANGE

### A. *Bell at First Glance—A Tool for Self-Help?*

Through the lens of seven years of practice, and now particularly the lens of teaching a Professional Responsibility course, I have pondered both the lives of lawyers and the developing law student. I have struggled both to articulate what has troubled me about the legal education process and to come to some explanation about the correlations between what I perceive as the ills of the profession, professional ethics, and legal training.

Like others, I have read numerous books from many genres over the years. I have also read several books that have left an indelible impression upon me, though none so much as one of Derrick Bell's most recent works, *Ethical Ambition*. At first, I made no connections between *Ethical Ambition* and the ills of the profession and legal education. In fact, after my first reading of the book, I simply viewed it as a powerful testament of personal, spiritual, and professional growth. Through *Ethical Ambition*, Bell offered a reflection on achieving success while maintaining fidelity to core values. He approached this seemingly oxymoronic topic with bravery and a raw honesty that made it accessible but challenging. Throughout my readings of the book, I felt like I was alone with a spiritual teacher engulfed by the wisdom he gives freely through his writing. As Bell's tone was often conversational (but no less intellectually stimulating), I envisioned myself sitting with him in a small hole-in-the-wall restaurant or enjoying a good cup of tea in an intimate room with a fire. His meditation rang true to me as I continued to engage with it. In many ways, Bell's words served as a mirror reflecting my own journey of personal growth and struggles.

Bell placed six principles at the forefront of his life's journey in attempting to live this paradox: *passion, courage and risk taking, faith, relationships, inspiration, and humility*. Using storytelling and parables, he illustrated through his own life and the lives of others how to manifest success and to withstand the harsh realities and challenges of doing so ethically. What emerged was a prescription for integrating professional success with personal values and dignity: ethical ambition. The challenges, difficulties, anguish, and even isolation of living ethically are magnified throughout the book as Bell described his journey to honor his values and do good work. Through his candid transparency, he exemplified that ethical living is possible and not some

unattainable aspiration that we resolve to do at the beginning of a new year or at certain stages in our lives. He showed us, via his own life as an example, that an ethical life is not necessarily one of sacrifice or dissatisfaction. After finishing the book, I believed *Ethical Ambition* should be on a mandatory reading list for law students and reviewed by practicing lawyers and judges, but for personal—not professional or institutional—reasons. It seemed that these agents of the legal system could draw inspiration from Bell's story in shaping their own personal visions for their lives.

Even accepting *Ethical Ambition* as simply a self-help book, it is still a book of immense utility. Certainly, the self-help and spirituality genres comprise the fastest growing sectors of the literary market.<sup>3</sup> Individuals are searching for something more, perhaps the formula for a fulfilling self-sustaining existence beyond the material possessions and marked commercialism encouraged by the media and the American political framework. With appetites insatiable for material possessions, six-figure corporate jobs, or the idyllic family of three kids and a dog, many are searching for meaning beyond position and wealth. While numerous social scientists, spiritual gurus, life coaches, and Oprah Winfrey advise that the origin of the void is lack of self awareness, purpose, balance, and integrity, the messenger

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<sup>3</sup> While arguably self-help books have their genesis in early 19th century writing, they have experienced a recent surge of popularity. In recent years, these books have dominated the publishing industry and book charts representing a multi-billion-dollar industry. These materials extend beyond books to include tapes, videos, calendars, and even seminars, training, and television programs. While female baby boomers and increasingly "Gen-Xers" buy these books and materials, consumers include a wide demographic stretching across gender, age, racial, and professional lines. See Dan Ackman and Jeff Bauer, *Want to Get Rich? Write a Self-Help Book: The Market for Wildly Popular Self-Help Books is Still Growing*, ABCNEWS.COM, May 16, 2004, at <http://abcnews.go.com/Business/story?id=86594&page=1> (reflecting that 3,500 new self-help books published in the United States in 2001 constituted 5.7 percent of all consumer book sales); Daisy Maryles, *The Weekly Charts—Shifting Sands*, PUBLISHERS WEEKLY, Jan. 13, 2003, at 32 (highlighting that how-to/self-improvement titles dominated the hardcover nonfiction book lists achieving the number one spot about 55 percent of the time, and acknowledging that in 2002, six of the eleven longest-running hardcover nonfiction bestsellers fall in this category); Daniel McGinn, *Self-Help U.S.A.*, NEWSWEEK, Jan. 10, 2000, at 43 (documenting the new millennium resolution of many to discover the meaning of their lives; also reflecting that self-help books constitute \$563 billion of the publishing industry, and the self-improvement industry has profits of \$2.48 billion per year); Annie Murphy Paul, *Self-Help: Shattering the Myths*, PSYCHOLOGY TODAY, Apr. 2001, at 60 (acknowledging that Americans explored 12,000 mental-health related Web sites in 2000); Lisa Singhanian, *Self-Help Looks to Baby Boomers for a Boost*, KENAI PENINSULA ONLINE, Sept. 19, 2003, at [http://peninsulalaclarion.com/stories/091903/bus\\_091903bus001001.shtml](http://peninsulalaclarion.com/stories/091903/bus_091903bus001001.shtml) (last visited Apr. 12, 2005) (Self-help books account for approximately 7–10 percent of all sales for Michigan-based Borders Books.). Evidence suggests that the religion and spirituality book category is experiencing rapid growth with a 10.6 percent increase in 2002. One example of the captivating nature of the religion and spirituality genre is the book *The Purpose Driven Life: What on Earth am I Here For?* by a Christian minister, Richard Warren, which sold nearly 14 million copies in about three years. Marcia Z. Nelson, *Religion Sells*, CHRISTIAN CENTURY, Dec. 19, 2004, at 8; see also A.J. Kiesling, *Religion Publishing's Black Hole*, PUBLISHERS WEEKLY, Mar. 22, 2004, at S10.

was different this time—an African-American male law professor.<sup>4</sup> His reflection emanated from a life through which he has consistently sought the road less traveled.

Many who offer perspectives on living a life of meaning and worth derive perspective from an epiphany borne by a tragedy, disaster, unscrupulous corruption, misappropriation, or recklessly inappropriate behavior. Bell was not a corporate executive professing a renewed sense of duty after living a life marked by unclean hands, nefarious business practices, and a selfishly motivated desire for success. Neither was his reflection based on hindsight after living a life in conformance to societal dictations of success. Bell's insight stemmed from having lived a life largely as an "outsider," with a devotion to his conscience and convictions. This is not to say that he has experienced no life-altering moments, losses, or even made mistakes; but most, if not all, of his professional work has focused on empowering others through the pursuit of civil and human rights—from his early work in the Department of Justice to the bowels of racism in the Deep South. By standing up against his perception of injustice as a way of living, Bell's view of what it takes to remain authentic and committed to good work was credible.

Is this a departure from Bell's groundbreaking collection of work, consisting of allegorical stories and essays on civil and human rights, which focus on race and class issues?<sup>5</sup> At first blush, perhaps. Deeper reflection reveals, however, that *Ethical Ambition* remains consistent with the spirit of Bell's previous works—intense and immensely challenging. In fact, *Ethical Ambition* serves as the allegory from the cave: a wake-up call highlighting that the legal enterprise has forgotten that its function is to train *individuals* and that ethics is a professional and personal obligation. In Plato's *Republic*, the prisoners in the cave were trapped by their own limited perspectives, the shadows they perceived as reality, while the truth lay just below the surface, represented by the light right behind them if they dared to turn toward it. In the same sense, we in the legal academy are experiencing a similar lack of vision, blinded by the shadows of traditional legal education, including legal doctrine and skills. However, the real light exists in the student-lawyers, who they are as individuals, and how their selfhood and personal visions will influence who

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<sup>4</sup> There are other noted spiritual gurus or life coaches who have amassed followings and contributed to the boom in the self-help industry. Some examples include: WAYNE W. DYER, *YOUR SACRED SELF: MAKING THE DECISION TO BE FREE* (1995); STEDMAN GRAHAM, *MOVE WITHOUT THE BALL: PUT YOUR SKILLS AND YOUR MAGIC TO WORK FOR YOU!* (2004); DENNIS KIMBRO & NAPOLEON HILL, *THINK AND GROW RICH: A BLACK CHOICE* (1991); SUZE ORMAN, *THE 9 STEPS TO FINANCIAL FREEDOM: PRACTICAL & SPIRITUAL STEPS SO YOU CAN STOP WORRYING* (1997); ANTHONY ROBBINS, *AWAKEN THE GIANT WITHIN* (1991); IYANLA VANZANT, *THE VALUE IN THE VALLEY: A BLACK WOMAN'S GUIDE THROUGH LIFE'S DILEMMAS* (1995); MARIANNE WILLIAMSON, *A RETURN TO LOVE: REFLECTIONS ON THE PRINCIPLES OF A COURSE IN MIRACLES* (1992).

<sup>5</sup> For more a in-depth look at Bell's works that include allegorical messages, see DERRICK BELL, *AFROLANTICA LEGACIES* (1998); DERRICK BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* (1987); DERRICK BELL, *CONFRONTING AUTHORITY: REFLECTIONS OF AN ARDENT PROTESTER* (1998); DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* (1992); DERRICK BELL, *GOSPEL CHOIRS: PSALMS OF SURVIVAL IN AN ALIEN LAND CALLED HOME* (1996) [hereinafter BELL, *GOSPEL CHOIRS*].

they become as legal professionals. In Plato's story, education had a shadow cast over it that distorted its true nature in the eyes of the professionals therein. Plato opined that they wrongly perceived education as a process through which the mind was filled with knowledge, ignoring the essence of the *whole* body—the vessel through which true enlightenment emerged. Thus, I use Plato's metaphor of the allegory of the cave to illustrate the legal academy's blind spots in developing whole individuals, or those with a philosophy of living that fosters a parallel philosophy of lawyering.<sup>6</sup>

Irrespective of the book's ultimate genre or characterization, who better than Bell to give us insight into how to make the tough choices necessary to engage in critical review, repositioning, and reconnecting with the origins of the profession? After seventy years of life experience and many years as a litigator, political activist, and academic, Bell's commitment to ethical living and authenticity is exemplified by the numerous voluntary decisions he has made throughout his career, including: resigning from his first job with the Department of Justice because they insisted that he relinquish his two-dollar NAACP membership; resigning as the Dean of the University of Oregon Law School to protest the faculty's failure to hire a woman of color; and then taking an unpaid leave to protest Harvard's failure to do the same five years later.<sup>7</sup> Despite the numerous sacrifices and setbacks, Bell made the tough choices he felt called to make and emerged with his career and convictions intact. Bell's journey exemplifies the reward in choosing ethical integrity over conformance, and he persuades readers because they understand that he has dwelled in the trenches and walked the talk. Simply, his message springs from a place of truth.

### *B. Rethinking Bell: Enters Woodson and a Convergence of Ideals*

Continuing to reflect on Bell's words in *Ethical Ambition*, a gnawing curiosity persisted. Often, I have contemplated the connection between self-examination and legal ethics and, more broadly as mentioned at the outset of this Article, the state of the profession. Surrendering to my internal inquisitor, I read *Ethical Ambition* again, but this time through the lens of a lawyer after several years of practice, a federal judicial clerk, and now a law professor. With that context and a deeper musing, Bell's work still served as a reflecting glass, but the illumination was even more striking. Questions emerged such as: What does this book tell us about the law and the profession? Does it reveal that our method for training lawyers is misguided? Must we aim to train students in a broader context of their identities and roles as lawyers? Finally, do connections exist between Bell's principles, lawyer dissatisfaction, and the often lack of professionalism, and even legal education? I realized that shortsightedly characterizing Bell's work as another in a series of "self-help" books misses the mark. Yes, he uses words such as "clarity," "energy," "balance," "awareness," "passion," "unhealthy," and "reflection"—terms often associated with the new-age generation focusing on affirming mantras, meditation, and "finding your

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<sup>6</sup> See 2 PLATO, THE REPUBLIC Book VII (T.E. Page et. al. eds., Paul Shorey trans., Harvard Univ. Press 1935).

<sup>7</sup> See BELL, *supra* note 1, at 3.

bliss." Yet, bravely and rather unintentionally perhaps, Bell also illuminates the extent to which our legal educational and professional enterprises are distorted.

Interestingly, Bell's *Ethical Ambition* echoes the concepts reflected in a work of another prominent African-American educator, Dr. Carter G. Woodson. Over seventy-five years ago, in *The Mis-Education of the Negro* (subsequently referred to as *The Mis-Education*), Woodson opined about the failure of the modern American educational systems, including graduate and professional schools, to adequately develop black students. Specifically, Woodson believed that an educational system devoid of context for the black student failed to adequately prepare the individual. Without an accurate understanding of the African and African-American experiences and no access to any recorded history of those experiences, the American educational model constituted nothing more than "information" for the student. The byproduct of this type of academic endeavor was a "mis-educated" group of black students devoid of the real tools necessary to sustain a practice of any type, whether vocational or professional. Thus, a de-contextualized learning experience devoid of cultural and ethnic references failed to foster the self-knowledge and self-confidence among black students and stifled revision of the public's opinion about the black race. Overall, the dehumanizing effects of the modern educational system, in Woodson's view, perpetuated the oppression of black Americans.

Woodson may be largely unfamiliar to most legal academics. The son of former slaves who could neither read nor write, Woodson earned a Ph.D. in history from Harvard. Woodson founded the Association for the Study of Negro Life and History. His numerous writings and other endeavors filled a cavity in the historical record of the contributions of blacks in American history. Additionally, Woodson founded the *Journal of Negro History* and the *Negro History Bulletin* and served as editor of both. Additionally, his legacy remains ever-present in the annual February commemoration of the contributions of blacks to American history. What is now commemorated as Black History Month was conceived by Woodson and began in 1926 as Black History Week. Through his honest and prolific writing and numerous initiatives, Woodson devoted his life to giving voice to the black experience in American life and history.

I first read *The Mis-Education* as a young college student in an African-American Literature course. Attending Xavier University of Louisiana,<sup>8</sup> one of many historically black colleges & universities (HBCU), Woodson's work resonated with me. I felt validated by my decision to attend an HBCU over the

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<sup>8</sup> A small liberal arts college in New Orleans, Xavier is the only historically black Catholic college in the United States. Founded by Saint Katherine Drexel and the Sisters of the Blessed Sacrament, Xavier opened its doors in 1925. Saint Katherine Drexel was canonized by Pope John Paul II in 2000. Both Catholic and historically black, Xavier's mission is "the promotion of a more just and humane society." Additionally, Xavier ranks first in the nation in awarding Doctor of Pharmacy and Biology and life science degrees to African-Americans and placing black students into medical schools. For more information about Xavier University, see XAVIER UNIV., ABOUT XAVIER UNIVERSITY, at <http://www.xula.edu/Aboutxavier.html> (last visited Feb. 22, 2005).



flagship university of my home state and mainstream Ivy League institutions. I considered myself a specimen in Woodson's laboratory, testing his hypothesis. At Xavier, I learned my history and my value as a person—who I was and how I fit into the panorama of the educational, political, and social landscape. I was in fact encouraged to pursue questions like “Who am I?” and “Why am I here?”—inquiries informed by my ethnicity, culture, and religious tradition. I graduated academically prepared to compete for career opportunities and post-graduate study. Significantly, however, I emerged from that experience with a strong sense of self-awareness, pride in my ethnic heritage, and confident in the contributions I was positioned to make. I bore the fruit of Woodson's hypothesis.

After further contemplating the essence of Woodson and Bell's ideals, I realized there existed interesting parallels between *Ethical Ambition* and *The Mis-Education*. Both books conveyed the value of context—the human context—to effective professional growth. At the core, Bell and Woodson recognized that knowledge and skills are only meaningful within a broader framework of an individual's self awareness as a *whole* person. Ultimately, this broader framework fosters congruence: harmony between the vision one holds for herself, informed by personal values, beliefs, identity, and experiences, and the life one leads as a professional.

From Woodson's perspective, the failure of the American educational system to provide full human context in developing black students resulted in their disjointed development. While the students studied and mastered subjects such as science, math, literary languages, and history, Woodson suggested that the benefit of that learning was not fully realized without some personal frame of reference—some level of race consciousness. The existing approach constituted nothing more than the “mere imparting of information” and left the student with “little or no training at all.”<sup>9</sup> Almost prophetically, Woodson opined that the “education of any people should begin with the *people* themselves.”<sup>10</sup>

Thus, Woodson expressed that a dehumanized educational experience forced a *de-selfing* by the black student. A focus on intellectual development without reference to or inclusion of the human context transformed institutions of higher learning into “diploma mill” factories. Such a “low standard” and barren approach to education produced individuals ill-equipped to handle the realities of their chosen discipline and, consequently, less effective conduits for change. Regarding terminal degree programs, for instance, Woodson stated that the graduates “not only lose touch with the common people,” but they fail to become creative problem solvers and thinkers.<sup>11</sup> Overall, Woodson espoused learning from the inside-out rather than the outside-in.

Interestingly, Woodson specifically addressed law schools in this context. Woodson viewed the profession as one in which “[w]e may have too many

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<sup>9</sup> See WOODSON, *supra* note 2, at 6.

<sup>10</sup> *Id.* at 32 (emphasis added).

<sup>11</sup> *Id.* at 35. Also, Woodson discussed various kinds of schools, including schools of theology, business administration, and journalism and explored how in each, black students were being miseducated. *Id.* at 4–5.

lawyers of the *wrong* kind, but we have not our share of the *right* kind.”<sup>12</sup> For instance, Woodson surmised that the Negro law student received training that lacked any context of their future clients and the problems they confronted.<sup>13</sup> Woodson recognized that these perspectives did not constitute the law itself, but a framework in which the Negro law student could become the most effective advocate for the community.<sup>14</sup>

After all these years, Woodson’s perspective seems strikingly applicable to our legal education and professional models. Essentially, law students undergo a lobotomy of their hearts and minds, extracting any conception of self from the law.<sup>15</sup> The student-lawyers leave the educational laboratory sterilized of any personal relation to the vocation of law—who they are and *how* they fit into this learned profession.<sup>16</sup> Outsider and marginalized groups such as students of color, women, and non-traditional students have perhaps experienced the most alienation in law school.<sup>17</sup> However, the alienation and anxiety is more widespread, affecting law students as a whole.<sup>18</sup> Thus, the legal educational model is depersonalized to the detriment of the lawyers produced and the recipients of their services. The student-lawyers leave the legal academy incongruent—without a developed philosophy of living that promotes integrity

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<sup>12</sup> *Id.* at 173 (emphasis added).

<sup>13</sup> *Id.* at 173–74.

<sup>14</sup> Similarly, Spottswood Robinson discussed students’ potential as social engineers and activists in their various communities. See Hon. Spottswood Robinson, III, *No Tea for the Feeble: Two Perspectives on Charles Hamilton Houston*, 20 HOW. L.J. 1, 3–4 (1977).

<sup>15</sup> See, e.g., Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 HARV. L. REV. 2027, 2032 (1998) (commenting that as students enter law school with a “sense of self—of being a unique person with a particular history, rhythm of life, perspective on the world, and style of interacting,” expecting that their personal identities will serve as a source of reference through the course of study, but what they learn instead is their identities are irrelevant and devalued).

<sup>16</sup> See Lucia Ann Silecchia, *Integrating Spiritual Perspectives With The Law School Experience: An Essay and An Invitation*, 37 SAN DIEGO L. REV. 167, 192 (2000) (commenting on the “emptiness that may accompany mere acquisition of skills and knowledge if that acquisition is not accompanied by some reflection on the deeper ramifications of a life in the law”).

<sup>17</sup> See, e.g., DUNCAN KENNEDY ET AL., *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM: A CRITICAL EDITION* (2004); Lani Guinier et al., *Becoming Gentlemen: Women’s Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994). Similar isolation is experienced in practice by lawyers in marginalized groups. See, e.g., DEBORAH L. RHODE, ABA COMM’N ON WOMEN IN THE PROFESSION, *THE UNFINISHED AGENDA: A REPORT ON THE STATUS OF WOMEN IN THE LEGAL PROFESSION* (2001); Stephanie Francis Ward, *A Question of Class: White-Collar Lawyers with Blue-Collar Backgrounds Often Straddle Dissimilar Worlds*, A.B.A. J., July 2004, at 37 (discussing the tension experienced by lawyers from working-class backgrounds, including value and identity clashes). See generally Linda E. Dávila, *The Underrepresentation of Hispanic Attorneys in Corporate Law Firms*, 39 STAN. L. REV. 1403 (1987); Margaret M. Russell, *Beyond “Sellouts” and “Race Cards”: Black Attorneys and the Straitjacket of Legal Practice*, 95 MICH. L. REV. 766 (1997); David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493 (1996).

<sup>18</sup> See, e.g., DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (1983); SCOTT TUROW, *ONE L* (1977).

in action, such that their philosophy of lawyering parallels their self-defined purpose as a legal professional.

At this juncture, I must acknowledge the differences between Woodson's 1933 work and Bell's more recent endeavor. Plainly, these two works do not involve the same population groups nor embody identical perspectives about their respective subject matters.<sup>19</sup> Nevertheless, the core messages of these books are notably similar—the context of the “self” matters in education, and, in fact, it is essential. Fortuitously, the convergence of *Ethical Ambition* and *The Mis-Education* provides a lens through which to reevaluate how we train legal professionals and engage in the practice of law.

### C. *A Woodson's-Eye View of Legal Education—Its Evolution and Shortcomings*

A survey of the evolution of legal education shows that the academy has journeyed along a path Woodson advocated, but still falls short of the type of contextualized experience necessary to train *whole* persons. At the outset, however, it is important to note that Woodson's work is relevant in the context of educating *all* students, not just students of color. The reality is that law schools today have more diverse and nontraditional students than ever before. More importantly, law schools are preparing future lawyers to serve a multicultural clientele. Thus, the call to include context and to develop the *whole* student must be heeded.

Law school curricula and teaching methodologies have evolved since their Langdellian roots.<sup>20</sup> There are numerous signposts of progress. The legal academy now values scholarship on teaching and learning, in addition to the traditional doctrinal and jurisprudential endeavors.<sup>21</sup> While the case method remains a dominant methodology for imparting legal doctrine, to bridge the gap

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<sup>19</sup> In *Ethical Ambition*, Bell does not focus on black Americans specifically (although this perspective is embedded in his personal reflection). For instance, his premise is not focused on the enslavement and oppression of black Americans. *Ethical Ambition* does not constitute a critique of education systems in general nor African-American education specifically. In contrast, in *The Mis-Education*, Woodson challenged the information-only approach of the American educational model with a focus on its dehumanizing effects on blacks specifically. For Woodson this was about exposing a system that continued to enslave Negroes at all levels of the intellectual spectrum by removing any personal connection to the knowledge they obtained. Thus, education failed because these students were not being trained to become critical thinkers equipped and confident to serve their communities and effect societal change. (It bears mentioning that Bell has written about legal education as well. See, e.g., Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025 (1993)).

<sup>20</sup> For a discussion of the evolution of law teaching methodology including the case method, problem method, narrative storytelling, and technology, see Steve Sheppard, *An Introductory History of Law in the Lecture Hall*, in 1 THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES 7–71 (Steve Sheppard ed., 1999). For more historical accounts and commentaries on the evolution of American legal education, see THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES (Steve Sheppard ed., 1999).

<sup>21</sup> See, e.g., Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75 (2002); Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Progression of Law Students*, 33 WILLAMETTE L. REV. 315 (1997).

between doctrine and practice and to humanize the analytical process, the problem method has become pervasive.<sup>22</sup> Hypotheticals no longer exclusively consist of fictitious subjects such as "Blackacre," with instructors replacing the "Does" and their ilk with real names and places.<sup>23</sup> Further, the problem method, which began as short fact patterns testing rule application, has been extended to detailed hypotheticals and role-plays which often require students to assume the persona of lawyers, clients, witnesses, and judges in a particular context involving complex legal dilemmas.<sup>24</sup> Law school pedagogy includes narrative and storytelling which seek to further humanize the law and to highlight its effects on individuals and institutions.<sup>25</sup> Thus, law school classrooms have begun to incorporate a plethora of methodologies which enhance the effectiveness and interest of legal training.

Moreover, our classroom discussions now include interdisciplinary perspectives—critical legal studies,<sup>26</sup> jurisprudence, law and economics, law

<sup>22</sup> See Sheppard, *supra* note 20, at 37–39. For a more detailed historical discussion of the problem method and its rationale, see Stephen Nathanson, *The Role of Problem Solving in Legal Education*, 39 J. LEGAL EDUC. 167 (1989); Gregory L. Ogden, *The Problem Method in Legal Education*, 34 J. LEGAL EDUC. 654 (1984).

<sup>23</sup> Charles R. Calleros, *Training a Diverse Student Body for a Multicultural Society*, 8 LA RAZA L.J. 140, 144–45, 152 (1995); Paula Lustbader, *Teach in Context: Responding to Diverse Student Voices Helps All Students Learn*, 48 J. LEGAL EDUC. 402, 407 (1998) (recommending students make up their own hypotheticals).

<sup>24</sup> See Sheppard, *supra* note 20, at 40–41.

<sup>25</sup> *Id.* See generally Anthony G. Amsterdam, *Telling Stories and Stories About Them*, 1 CLINICAL L. REV. 9 (1994); John Batt, *Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning*, 40 J. LEGAL EDUC. 19 (1990); Paul L. Caron, *Back To The Future: Teaching Law Through Stories*, 71 U. CIN. L. REV. 405 (2002); Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989) (opining on how creative narrative assists in breaking down traditional thought patterns); James R. Elkins, *A Bibliography of Narrative*, 40 J. LEGAL EDUC. 203 (1990); David O. Friedrichs, *Narrative Jurisprudence and Other Heresies: Legal Education at the Margin*, 40 J. LEGAL EDUC. 3 (1990); *Pedagogy of Narratives: A Symposium*, 40 J. LEGAL EDUC. 1 (1990); Steven H. Hobbs, *Ralph Ellison as Oral Storyteller*, 26 OKLA. CITY U. L. REV. 927 (2001); *Lawyers as Storytellers & Storytellers As Lawyers: An Interdisciplinary Symposium Exploring the Use of Storytelling in the Practice of Law*, 18 VT. L. REV. 567 (1994); Teresa Godwin Phelps, *Narratives of Disobedience: Breaking/Changing the Law*, 40 J. LEGAL EDUC. 133, 134–135 (1990) (exposing the law's malfunction through the use of narrative); Symposium, *Case Studies in Legal Ethics*, 69 FORDHAM L. REV. 787 (2000); Symposium, *Legal Storytelling*, 87 MICH. L. REV. 2073 (1989); James Boyd White, *Telling Stories In the Law and In Ordinary Life: The Orestia and "Noon Wine," in HERACLES' BOW: ESSAYS ON THE RHETORIC AND POETICS OF THE LAW* 168–69 (1985).

<sup>26</sup> DOROTHY A. BROWN, *CRITICAL RACE THEORY: CASES, MATERIALS AND PROBLEMS* (2003); CRITICAL RACE THEORY, KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberle Crenshaw et al. eds., 1995). For a bibliography of literature of the critical legal studies movement, see Duncan Kennedy & Karl E. Klare, *A Bibliography of Critical Legal Studies*, 94 YALE L.J. 461 (1984). For information on more recent outgrowths of the critical legal studies movement such as Latina and Latino Critical Theory, see Symposium, *LatCrit Theory: Naming and Launching a New Discourse of Critical Legal Scholarship*, 2 HARV. LATINO L. REV. 1 (1997), and Joint Symposium, *Culture, Language, Sexuality and Law: LatCrit Theory and the Construction of the Nation*, 33 U. MICH. J.L. REFORM 203 (2000), 5 MICH. J. RACE & L. 787 (2000).

and humanities, law and religion, law and literature,<sup>27</sup> and law and sexuality, to name a few. At the same time, evolving from the clinical education movement and reinforced by *Legal Education and Professional Development—An Educational Continuum* (the McCrate Report),<sup>28</sup> emphasis is placed on skills training such as trial advocacy,<sup>29</sup> client counseling, and alternative dispute resolution, including negotiation and mediation.<sup>30</sup>

Further, in 1983, the American Bar Association entered the fray by mandating that all accredited law schools offer courses in professional responsibility, which demonstrated a willingness not only to raise the public's perception of lawyers but to emphasize professional responsibility in legal representation.<sup>31</sup> Scholar Deborah Rhode has even led a movement to make ethics pervasive throughout the legal curriculum—not confined to condiment courses like professional responsibility.<sup>32</sup> And it has not stopped there. Recent developments include therapeutic jurisprudence, collaborative law, holistic law, and preventive lawyering, which, in part, seek to further humanize clients in the eyes of students.<sup>33</sup>

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<sup>27</sup> See, e.g., Margaret E. Montoya, Mascaras, Trenzadas, y Grenas: *Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L.J. 185 (1994); Margaret E. Montoya, *Law and Language(s): Image, Integration and Innovation*, 7 LA RAZA L.J. 147 (1994).

<sup>28</sup> ABA SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter MCCRATE REPORT].

<sup>29</sup> See Marilyn J. Berger et al., *Letters and Postcards We Wished We Had Sent to Gary Bellow and Bea Moulton*, 10 CLINICAL L. REV. 157, 157 (2003) (acknowledging the contribution of Bea Moulton's *The Lawyering Process: Materials for Clinical Instruction in Advocacy* (1978), which "broke new ground in teaching the art and skill of legal advocacy" by providing a model merging "skills, substantive content, and ethical dimensions"); MARILYN J. BERGER ET AL., PRETRIAL ADVOCACY: PLANNING, ANALYSIS, AND STRATEGY (1989).

<sup>30</sup> See *supra* note 24; MCCRATE REPORT, *supra* note 28, at 139. See also ABA SEC. OF THE LEGAL EDUC. & ADMISSIONS TO THE BAR, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF LAW SCHOOLS 3 (1979) (report recommending that law schools provide instruction in the "fundamental skills of lawyer competence"). More recently, the ABA has criticized the legal academy for its failure to require skills training for all students and recommends revising the standards making such training mandatory in ABA approved law schools. See <http://www.abanet.org/legaled>.

<sup>31</sup> ABA, APPROVAL OF LAW SCHOOLS: AMERICAN BAR ASSOCIATION STANDARDS AND RULES OF PROCEDURE § 302(a)(iv) (1983). Codified precepts for American lawyers have their genesis in the ABA's Canons of Professional Ethics, adopted in 1908. In 1969, the ABA replaced the Canons with the Model Code of Professional Responsibility which was succeeded by the Model Rules of Professional Conduct in 1983. In 2002, the ABA adopted its most significant modification of the Model Rules since 1983 with the adoption of changes recommended by the ABA's Ethics 2000 Commission. For a historical discussion of these transitions, see Geoffrey C. Hazard, Jr., *The Future of Legal Ethics*, 100 YALE L.J. 1239, 1249–60 (1991).

<sup>32</sup> See, e.g., DEBORAH L. RHODE, PROFESSIONAL RESPONSIBILITY: ETHICS BY THE PERVASIVE METHOD (2d ed. 1998).

<sup>33</sup> See, e.g., PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION (Dennis P. Stolle et al. eds., 2000); Susan Daicoff, *Making Law Therapeutic for Lawyers: Therapeutic Jurisprudence, Preventive Law, and the Psychology of Lawyers*, 5 PSYCHOL.

Overall, the course offerings are robust with a smorgasbord of specialty subject areas. Many law schools even provide focus areas to ensure that students are more thoroughly prepared in a desired area or discipline. Additionally, technological advances have been incorporated into legal pedagogy. Personal computers now facilitate interactive learning outside of the classroom through web-based course pages,<sup>34</sup> real-time discussions, tutorials, and virtual research.<sup>35</sup> To illustrate legal rules and their shortcomings or to present hypotheticals for class discussion, faculty often employ the use of film and television clips.<sup>36</sup> In particular, law-related shows such as *L.A. Law* and *The Practice* and books like *A Civil Action* have been effective for teaching courses in procedure or professional responsibility.<sup>37</sup>

Our classrooms also have begun to reflect some improvement in diversity through the inclusion of more students of color,<sup>38</sup> and the establishment of academic support programs to enrich students' experiences and to ensure their

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PUB. POL'Y & L. 811 (1999); Pearl Goldman & Leslie Larkin Cooney, *Beyond Core Skills and Values: Integrating Therapeutic Jurisprudence and Preventive Law Into the Law School Curriculum*, 5 PSYCHOL. PUB. POL'Y & L. 1123 (1999); Majorie A. Silver, *Emotional Intelligence and Legal Education*, 5 PSYCHOL. PUB. POL'Y & L. 1173 (1999); Fred. C. Zacharias, *Professional Responsibility, Therapeutic Jurisprudence, and Preventive Law*, 5 PSYCHOL. PUB. POL'Y & L. 909 (1999); Pauline H. Tesler, *Collaborative Law: What it is and Why Lawyers Need to Know About It*, in PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION (Dennis P. Stolle et al. eds., 2000). See also Ronald J. Gilson & Robert H. Mnookin, *Disputing Through Agents: Cooperation and Conflict Between Lawyers in Litigation*, 94 COLUM. L. REV. 509 (1994).

<sup>34</sup> The West Education Network (TWEN) from WestGroup and the LEXIS Virtual Classroom from Lexis-Nexis provide web-based course page services to professors.

<sup>35</sup> See Sheppard, *supra* note 20, at 42–43 nn.509–12; see also THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES, *supra* note 20, chs. 88–89.

<sup>36</sup> See Sheppard, *supra* note 20, at 42. The ABA has also supported the use of such media in the classroom. See, e.g., FILMS AND FILM STRIPS ON LEGAL AND LAW-RELATED SUBJECTS (ABA Audio-Visual Communications Dep't ed., 1974).

<sup>37</sup> Sheppard, *supra* note 20, at 42. See also, e.g., Christine Alice Corcos, *Columbo Goes to Law School: Or, Some Thoughts on the Uses of Television in the Teaching of Law*, 13 LOY. L.A. ENT. L. REV. 499 (1993); Stephen Gillers, *Taking L.A. Law More Seriously*, 98 YALE L.J. 1607 (1989); Videotape: Lessons from Woburn (Marilyn Berger & Henry Wiggleworth 1999) (on file with the Seattle University School of Law).

<sup>38</sup> In 2000, students of color comprised approximately 20 percent of entering law students. DEBORAH L. RHODE, IN THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION 192 (2000); see also ABA COMM'N ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION, STATISTICS ABOUT MINORITIES IN THE PROFESSION, at <http://www.abanet.org/minorities/links/statistics.html> (last visited Feb. 25, 2005); Claude M. Steele, *Race and the Schooling of Black Americans*, ATLANTIC MONTHLY, Apr. 1992, at 68, 74, 78 (advocating that law school communities and curricula reflect diversity).

success.<sup>39</sup> Women and minorities are joining the faculty ranks and hence enriching the law school experience for their students and colleagues.<sup>40</sup>

In the final analysis, the legal educational enterprise merely has provided law students with more information, albeit more sophisticated, complex, and valuable competencies. As Woodson noted several decades ago, however, providing information alone, no matter how sophisticated, fails to create properly educated individuals. After three years of study, the students have focused on the various instruments of the legal process—the law itself, the adjudicative agents and fora (including judges and juries), social and political influences, and significantly, the clients.<sup>41</sup> Legal study is comparatively devoid, however, of any discussion of the student-lawyers as individuals who are indispensable instruments in the legal process. The students engage in no exploration of *who* they are and *how* they fit into the profession. In essence, the student-lawyers' professional maturation is stunted, perhaps even impeded.

Through the academy's current approach, the students learn the necessary art of technical rationality but emerge incomplete, without a self-integrative and authentic relation to their future endeavors.<sup>42</sup> In the end, the student-lawyers receive no real conditioning to effectively engage and sustain themselves in the practice of law. Therefore, the legal institution has facilitated their entry into the profession by focusing on every instrument in the system except the student-lawyers themselves. The current model demonstrates Woodson's premise of the "mere imparting of information," transforming these students into lawyers but failing to truly develop professionals equipped to adjust to and navigate through the rigors of an ethical law practice.

In a profession plagued by a demeaned public persona, afflicted by substance abuse and high divorce rates, and filled with disillusioned members, the scope of this cavity in the profession cannot be ignored.<sup>43</sup> Lawyers-in-

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<sup>39</sup> See Richard Cabrera & Stephanie Zeman, *Law School Academic Support Programs—A Survey of Available Academic Support Programs for the New Century*, 26 WM. MITCHELL L. REV. 205 (2000); Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. REV. 839 (1997); Adam G. Todd, *Academic Support Programs: Effective Support Through a Systemic Approach*, 38 GONZ. L. REV. 187 (2002–03).

<sup>40</sup> See ASS'N OF AM. LAW SCH., STATISTICAL REPORT ON LAW SCHOOL FACULTY AND CANDIDATES FOR LAW FACULTY POSITIONS 2002–03, at <http://www.aals.org/statistics/2002-03/index.html> (last visited Feb. 24, 2005). Despite these gains, faculty of color comprise only 10% of either full professors or law school deans. RHODE, *supra* note 38, at 192–93.

<sup>41</sup> RHODE, *supra* note 38, at 185–86 (noting that students graduate "well versed in postmodern literary theory"; that while they have mastered the thinking-like-a-lawyer game, they leave without knowing "how to make a living at it").

<sup>42</sup> See generally CARL HORN III, *LAWYERLIFE: FINDING A LIFE AND A HIGHER CALLING IN THE PRACTICE OF LAW* (2003); STEVEN KEEVA, *TRANSFORMING PRACTICES: FINDING JOY AND SATISFACTION IN THE LEGAL LIFE* (1999); ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993); THANE ROSENBAUM, *THE MYTH OF MORAL JUSTICE: WHY OUR LEGAL SYSTEM FAILS TO DO WHAT'S RIGHT* (2004); DONALD A. SCHÖN, *THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION* (1983); BENJAMIN SELLS, *THE SOUL OF THE LAW* (1994); *THE PASSIONS OF LAW* (Susan A. Bandes ed., 1999).

<sup>43</sup> See ABA, *THE REPORT OF AT THE BREAKING POINT: A NATIONAL CONFERENCE ON THE EMERGING CRISIS IN THE QUALITY OF LAWYERS' HEALTH AND LIVES—ITS IMPACT ON*

training suffer from similar maladies including depression and substance abuse during, and as a result of, the law school experience.<sup>44</sup> The student-lawyers

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LAW FIRMS AND CLIENT SERVICES (1991) (noting that lawyers, irrespective of work environment, level, and salary, experienced increased dissatisfaction with the practice of law in 1990); ABA YOUNG LAWYERS DIVISION, THE STATE OF THE LEGAL PROFESSION: 1990 (1991) (documenting increased professional dissatisfaction in all segments of the bar since its 1984 study and noting an increased toll on women lawyers as compared to male lawyers); HORN, *supra* note 42; KEEVA, *supra* note 42; KRONMAN, *supra* note 42 (diagnosing a spiritual crisis in the profession); NORTH CAROLINA BAR ASS'N, FINAL REPORT OF THE QUALITY OF LIFE SURVEY OF NORTH CAROLINA ATTORNEYS (1991) (showing statistically significant job dissatisfaction and mental distress rates experienced by members of the North Carolina bar); RHODE, *supra* note 38, at 8–13, 28–30 (criticizing contemporary law practice marked by long hours serving profit-driven pyramids, unrestrained materialism, and psychological distress which studies show begins in law school); SELLS, *supra* note 42; George Edward Bailly, *Impairment, the Profession and Your Law Partner*, 15 ME. B.J. 96, 96–106 (2000) (discussing the relationship between the prevalence of substance abuse in the legal profession and professional responsibility); Connie J.A. Beck et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & HEALTH 1 (1995–96) (highlighting significant prevalence of alcohol abuse and divorce experienced by a cross-section of lawyers); G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT'L J.L. & PSYCHIATRY 233, 233–46 (1990) (revealing the prevalent rates of emotional, alcohol, and drug abuse symptoms afflicting practicing lawyers in two states); Susan Daicoff, *Asking Leopards to Change Their Spots: Should Lawyers Change? A Critique of Solutions to Problems with Professionalism by Reference to Empirically-Derived Attorney Personality Attributes*, 11 GEO. J. LEGAL ETHICS 547 (1998); Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337 (1997) (providing a comprehensive review of empirical literature about law students and lawyers and correlating the data to a public confidence crisis, a professional crisis, and pervasive lawyer dissatisfaction); W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1079–87 (1990) (noting that lawyers are 3.6 times more likely than any other occupational group to suffer from major depressive disorder); Carl Horn, *Twelve Steps Toward Personal Fulfillment in Law Practice*, LAW PRAC. MGMT., Oct. 1999, at 36 (offering a twelve-step program for lawyers to address increased lawyer dissatisfaction and dysfunction); William E. Livingston, *De-Stressing the Profession*, MICH. B.J., Oct. 2002, at 24, 24–27 (2002) (highlighting the stress-inducing characteristics of law practice including the “psychic battering” which involves continual denial of self emotionally and a dependency on alcohol and other mind-altering substances); Barbara S. McCann et al., *Hostility, Social Support, and Perceptions of Work*, 2 J. OCCUPATIONAL HEALTH PSYCHOL. 175, 175–85 (1997) (highlighting the hostility experienced by lawyers based on collegiality, time pressures, and job dissatisfaction); Deborah L. Rhode, *The Profession and Its Discontents*, 61 OHIO ST. L.J. 1335 (2000); Roger E. Schechter, *Changing Law Schools to Make Less Nasty Lawyers*, 10 GEO. J. LEGAL ETHICS 367 (1997); Martin E.P. Seligman et al., *Why Lawyers Are Unhappy*, 23 CARDOZO L. REV. 33 (2001).

<sup>44</sup> See *supra* note 43; see also G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 AM. B. FOUND. RES. J. 225 (highlighting the development and progression of depression, anxiety, hostility, and paranoia experienced by law students as significantly greater than that suffered by comparison group of medical students); Gerald W. Boston, *Chemical Dependency in Legal Education: Problems and Strategies*, 76 MICH. B.J. 298 (1997) (identifying law student chemical dependency and its effects on the character and fitness and admission process); Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 LAW & HUM. BEHAV.



who have felt the strains of our enterprise are even beginning to voice their discontent in law review articles.<sup>45</sup>

An enterprise suffering from such symptoms cannot expect students to become happy, healthy, ethical, and effective practitioners when the most indispensable "being" in the legal process is discounted and underdeveloped. As law students learn doctrine and lawyering skills (even with a client-centered focus), their human instincts, personal values, and identities are dishonored.<sup>46</sup>

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55 (1999); B.A. Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627, 627-28 (1990) (providing an in-depth analysis of law school stress and its undermining effects on learning, morale, and the legal profession); Mitu Gulati et al., *The Happy Charade: An Empirical Examination of the Third Year of Law School*, 51 J. LEGAL EDUC. 235 (2001) (focusing on the disengagement of third-year law students); James M. Hedegard, *The Impact of Legal Education: An In-Depth Examination of Career-relevant Interests, Attitudes, and Personality Traits Among First-Year Law Students*, 1979 AM. B. RES. J. 791 (1979) (showing significant increases in feelings of anxiety and internal conflict experienced by first-year law students); Hess, *supra* note 21; Robert Kellner et al., *Distress in Medical and Law Students*, 27 COMPREHENSIVE PSYCH. 220, 220-23 (1986); Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002); Bridget A. Maloney, Note, *Distress Among the Legal Profession: What Law Schools Can Do About It*, 15 NOTRE DAME J.L. ETHICS & PUB. POL'Y 307 (2001) (highlighting five sources of student stress: Socratic method, lack of control, lack of feedback, fear of failure, and the importance of first-year grades); Richard K. Neumann Jr., *Donald Schön, The Reflective Practitioner, and the Comparative Failures of Legal Education*, 6 CLINICAL L. REV. 401 (2000); Note, *supra* note 15; James R.P. Ogloff et al., *More Than "Learning to Think Like a Lawyer:" The Empirical Research on Legal Education*, 34 CREIGHTON L. REV. 73 (2000) (reviewing previous legal research on the state of the profession covering pre-law selection, three-year law training, and post-graduate effects); *Report of the AALS Special Committee on Problems of Substance Abuse in Law Schools*, 44 J. LEGAL EDUC. 35 (1994) (highlighting the increasing prevalence of alcohol and drug use at 19 law schools); Cathaleen A. Roach, *A River Runs Through It: Tapping Into the Information Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667 (1994) (suggesting psychological distress causes isolation in law schools, which is disproportionately borne by students of color and non-traditional students); Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999); Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261 (2004) (documenting decreases in well-being, life satisfaction, positive affective, internal motivation, and intrinsic values during the first year of law school); James B. Taylor, *Law School Stress and the "Déformation Professionnelle,"* 27 J. LEGAL EDUC. 251 (1975).

<sup>45</sup> See, e.g., Note, *supra* note 16; Maloney, *supra* note 44.

<sup>46</sup> For example, I have heard on more than one occasion student anecdotes of professors telling them there is no place for emotion (i.e., humanity) in the law. This point was exemplified by a recent comment by noted legal ethicist Thomas Shaffer during a presentation to a group of law students at Seattle University School of Law in April 2004. He noted that in many instances students enter law school with a self perception and personal connection to their goals in becoming lawyers. They are soon exposed to the study of law in which it is as if they go through a "black box" and come out the other end a totally new and dehumanized individual. With such atrophy in our legal education system, we are arguably in the "diploma mill" business, as Woodson observed, producing mere legal technicians. Thus, we continue to similarly miseducate the student-lawyer. See RHODE, *supra* note 38, at 198 (commenting on the methods and priorities of legal education and observing that we teach in a manner that is "distanced and detached from human contexts");

At the same time, student-lawyers gain no appreciation for the healing origins of the profession and respect for their places therein. Woodson identified a similar weakness in our educational framework nearly seventy-five years ago. While he focused on the dehumanizing effects on black students, even Woodson acknowledged that on some level this was not about race, but about starting with the students themselves, acknowledging their identities, and “approaching [them] through their environment in order to deal with conditions as they are rather than as [the educators] would like to see them or imagine that they are.”<sup>47</sup> As Woodson noted, while the method of attack may be different, “the principle remains the same.”<sup>48</sup> Without such a human context, the “unusual gifts of the race” are undeveloped.<sup>49</sup> Woodson believed that as long as blacks focused their efforts from the outside-in, their true originality would never be realized.<sup>50</sup> Similarly, in Woodson’s words, the “unusual gifts” of the law student are not even acknowledged, let alone developed, under our current legal educational model.

In reflecting on the evolution of the American law school, the tremendous strides are apparent.<sup>51</sup> Additionally, the legal academy graduates lawyers in huge numbers and increasingly more lawyers of diverse backgrounds.<sup>52</sup> Therefore, it would seem that the varied legal needs of our society would be met. But the technocratic approach to legal education fails to fully equip student-lawyers. And the result is the production of nothing more than legal

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Krieger, *supra* note 44, at 125 (observing that our traditional teaching methodologies promote isolation and encourage students “to abandon their preferences, values, and instincts as they are trained to wholeheartedly embrace thinking ‘like a lawyer’”); Livingston, *supra* note 43, at 26 (“Lawyers are advised early in law school that to thrive in the culture of law practice, they must begin a process of separating their senses.” “Detached reasoning” is encouraged, while personal values and emotions are discouraged.); Note, *supra* note 15, at 2029–32 (observing that law school encourages identity detachment, which alienates students from their former ideals, values, and goals in law); Michael I. Swygert, *Striving to Make Great Lawyers—Citizenship and Moral Responsibility: A Jurisprudence for Law Teaching*, 30 B.C. L. REV. 803, 816 n.48 (1989) (citing Richard Wasserstrom, *Legal Education and the Good Lawyer*, 34 J. LEGAL EDUC. 155, 159 (1984)) (commenting that students’ concerns about the normative effects of law are often dismissed as “mushy and naive appeals to sentiments, sympathies and [moral] commitments that [are thought to] have no place in the harder . . . life and mind of the lawyer”).

<sup>47</sup> See WOODSON, *supra* note 2, at xxxi.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 7.

<sup>50</sup> *Id.* at 7.

<sup>51</sup> RHODE, *supra* note 38, at 185 (acknowledging that the quality of legal education has greatly increased). See also DEBORAH L. RHODE, ACCESS TO JUSTICE (2004); Colloquium, *Deborah L. Rhode’s Access to Justice*, 73 FORDHAM L. REV. 841 (2004).

<sup>52</sup> See ABA, J.D. DEGREES 1984–2002, at <http://www.abanet.org/legaled/statistics/jd.html> (last visited Feb. 24, 2005); see also RHODE, *supra* note 38, at 118 (observing that “[t]he number of American lawyers has almost tripled over the last three decades and now approaches nine hundred thousand”); Schechter, *supra* note 43, at 370 n.16. In 1933, Woodson observed that where the increasing numbers of “educated” Negroes were of the “wrong kind,” that the increase in numbers becomes a disadvantage or negligible at best. WOODSON, *supra* note 2, at ixix.

technicians who possess no authentic relation to the profession nor develop the sagacity to serve clients well.

Considering its evolution, law schools now embody a more contextual focus, journeying along a path that Woodson advocated. While these movements are getting closer to the fulfillment of humanizing the law, they primarily embody a client service-oriented perspective, not the holistic development or integration of the student-lawyers as individuals. In my view, in order to better service clients and the ideals of justice, lawyers and student-lawyers must know themselves. Thus, the current nature of legal education simply fails to produce lawyers capable of sustaining themselves in this complex and highly stressful profession.

#### *D. Bell's Six Principles—A Blueprint for Change*

While Woodson long ago identified the problem, Bell offers the method to reconnect the development of student-lawyers and practitioners to the origins of the profession. By some historical accounts of the twelfth century, the lawyer's role was then conceptualized as a healer of conflict.<sup>53</sup> Relational discord was the malady lawyers treated (and sought to alleviate) just as doctors healed the body and clergy soothed the soul. Bell's work is a call to rediscover the inner truth of our profession, a truth that must embody a commitment to fully developing student-lawyers.<sup>54</sup> If we perceive ourselves as a steward-like profession (meaning one in which our members serve as leaders and guide clients to conflict resolution), then our dehumanized approach to legal training fails to holistically develop "whole" persons—those fully equipped with the knowledge and emotional acumen to effectively serve clients and sustain their personal identities and values in the midst of professional demands.

In describing his journey, Bell refuses to sugar-coat ethics. Because he is so candid in his reflections, at times the readers can see tensions that he cannot. Bell admits that he does not possess clear-cut answers to the question so often

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<sup>53</sup> See, e.g., John W. Allen, *Lawyers as Healers*, 80 MICH. B.J. 42, 42–43, 43 nn.1–2 (2001). More than 20 years ago, Chief Justice Warren Burger also iterated the profession's roots as "healers of human conflict." Warren E. Burger, *Isn't There a Better Way?*, 68 A.B.A. J. 274 (1982); see also Susan Reynolds, *The Emergence of Professional Law in the Long Twelfth Century*, 21 LAW & HIST. REV. 347, 349–50 (2003) ("Their skill lay as much or more in getting a consensus on what was customary and right from those present, or the more senior among them, as in formal knowledge of written texts."); Amelia J. Uelmen, *A View of the Legal Profession from a Mid-Twelfth-Century Monastery*, 71 FORDHAM L. REV. 1517, 1532–34 (2003).

<sup>54</sup> The Jesuit community received a similar call in 1989 when Peter-Hans Kolvenbach, S.J., the Superior General of the Society of Jesus, made a speech wherein he emphasized the value-oriented nature of Jesuit education—values which are "anchored in the mind, heart and hand." Peter-Hans Kolvenbach, Address to Assembly 1989: Jesuit Ministry in Higher Education (June 7, 1989) (Published by the Jesuit Conference; transcript available in the Seattle University Library). Jesuit education seeks to educate "'the whole person,' intellectually and professionally, psychologically, morally and spiritually." Peter-Hans Kolvenbach, *True Solidarity: The Service of Faith and the Promotion of Justice in American Jesuit Higher Education*, AMERICA, Feb. 5, 2001, at 8, 11. Perhaps the legal academy could also emulate the higher education mission of the Jesuit order, which embodies values of self reflection and an Ignatian spirituality.

asked by his students: How do you practice law and live a life of integrity without sacrificing self identity when the societal messages, models, and pressures are so contradictory? While he has no definitive response for such tough questions, he encourages a reframing of their lives and how they define success. Thus, “ethical” serves as a modifier of a variation of the kind of success he seeks. Bell encourages redirecting a drive for individual material success (a drive fostered, he believes, by our cultural hypocrisy) to a drive for what he calls *ethical ambition*.

In his view, ethical living encompasses actions that promote social justice, cultivate fairness, and achieve congruity with moral norms. With an ethical orientation, success transcends position, power, or wealth. Simply, yet profoundly, it is about living a life that matters—one of service fostered by authenticity and congruence. The path to ethical ambition can be an exhausting endeavor to the mind, body, and spirit, as Bell’s life and work exemplify. Yet, he attests that making honorable choices can become the “nourishment upon which our spirits thrive.”<sup>55</sup> An individual develops an “inner dignity” and “overall serenity” unattainable through power, wealth, or position.<sup>56</sup>

To support his premise, Bell chooses to pursue six areas he deems significant to ethical success. As he explores each principle and its relevance, a steady undercurrent exists that emphasizes the contextual necessity of these principles. For instance, in reflecting on the power of passion, Bell cautions that an “endless search” is required to discover and sustain the energy he calls passion in our lives.<sup>57</sup> Throughout this work, Bell raises suspicion about the “unexamined” use of these six principles in one’s life. As such, he strongly espouses continuous self-examination of “who [you are], what [you] believe, value and desire.”<sup>58</sup> Such internal interrogation is necessary to develop and maintain a philosophy of living and lawyering that promotes integrity and purpose. Thus, like Woodson’s *The Mis-Education*, Bell’s *Ethical Ambition* uncovers the inadequacy of a depersonalized education process and offers a beacon for change.

### III. THE MODEL AND THE MORTAR—A CLOSER LOOK

A full appreciation of Bell’s prescription requires further exploration of each of the six principles he presents. After doing so, I offer some critique of Bell’s ideas, placing the principles in the context of humanizing the law, and I demonstrate how his principles serve as the mortar for building a holistic approach to training lawyers capable of integrating their personal philosophies into the practice of law. I have chosen to engage in substantive detail with each of the principles which form this model for transformation. Notwithstanding that Bell devotes an entire chapter to each of the six principles, it is certainly possible to engage more briefly and to simply provide the reader with the gist of Bell’s reflections. Frankly, however, I believe to do so would fail to convey

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<sup>55</sup> BELL, *supra* note 1, at 11.

<sup>56</sup> *Id.* at 13.

<sup>57</sup> *Id.* at 22.

<sup>58</sup> *Id.* at 9.

the richness, the power, and the wisdom of Bell's messages. Moreover, it is all too easy to dismiss a discussion of values and self-awareness in relation to legal professionalism and ethics as simply altruistic rose-colored normative views.

In light of the shortcomings of our legal enterprise and the state of the profession reflected in Part II, Bell's *Ethical Ambition* is quite timely. There is a crisis in the profession which overflows into law school environments.<sup>59</sup> As Bell reminds us, law students are struggling with the contradictions of a profession whose roots are in healing, justice, and fairness. So, as a response to the inquiries of his students and others, Bell attempts to guide readers based on his own life experiences and the experiences of others. Instead of imagining and pontificating about what ethical living is all about, Bell engages his readers personally, sharing his own struggles, frustrations, and mistakes. It is through his transparency that the blueprint for a transformation of the legal enterprise emerges.

Affording expression to values often avoided in the context of law, through these six principles Bell provides the mold from which lawyers can be developed and sustained once in practice. Specifically, Bell's principles can and should be consciously incorporated into legal education and the practice of law. My hope is that my thorough engagement here (1) allows readers an opportunity to experience a personal reaction and engage in some level of self-awareness, (2) fosters some understanding of my proposal for a more self-integrative practice of law and how Bell's ideas correlate to that recommendation, and (3) demonstrates that these ideas are immensely teachable to student-lawyers and critical to the practice of law.

#### A. *Passion*

Bell begins his reflection with passion. To assist the reader in understanding passion, Bell, as if digging through a box of old treasures and discarding the counterfeit ones, explains what does not constitute passion. This is a necessary undertaking because in the midst of clichés such as “do what you love,” “find your bliss,” and the prevailing view that passion and ethics cannot peacefully coexist within our lives, we misidentify passion's character. Poignantly, Bell uses the sexual metaphor of orgasm to illustrate this point. He describes the tendency to associate passion with only climactic moments, making everything in between irrelevant. In doing so, Bell suggests that we simply live for the pinnacle sensation and lull ourselves to sleep until “the next orgasm comes along.”<sup>60</sup> Bell appears frustrated at this revelation, deeming this perception of passion unrealistic and even irresponsible. Despite his seeming frustration, Bell sympathizes with the tendency to acquiesce to the “culturally connected” view of passion and even the myth that passion is unattainable.<sup>61</sup> In his view, this misconception encourages us to become “spectators” to passion.<sup>62</sup>

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<sup>59</sup> See *supra* notes 43–44.

<sup>60</sup> BELL, *supra* note 1, at 23.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

From this perspective, legal education and the profession present passion as a forbidden outsider. There is little or no opportunity for reflection or the development of self-awareness and emotional intelligence in the law school classroom. Ironically, envying those who exemplify passion and at the same time despising and denigrating its appearance in their own thinking, student-lawyers regard the skill of legal reasoning as legitimate and too often dismiss or suppress emotionality in their study of the law. While some law students and lawyers may embody a *motivational* passion (i.e., optimism or positive feelings that promote action), they reject *affect* passion, becoming estranged from themselves by denying their personal beliefs, values, and identities. Moreover, law students and lawyers receive little or no support in their quest to truly discover or rekindle passion—to learn from it and to use it. But what do we lose when we exclude emotionality from the study and the practice of law?

Bell recalls conversations with students who expressed dissatisfaction during law school, though they were in the midst of academic excellence.<sup>63</sup> He further acknowledges that their later professional success (even in their dream job) does not guarantee satisfaction. While students may enter law school with a sense of idealism about their futures as lawyers, this optimism becomes missing-in-action as the students become entrenched in the law school process, focusing on classes, grades, and job opportunities. In the midst of their academic experience, students also struggle to balance the demands of family obligations and other personal challenges. This is the lullaby by which law students are seduced into a state of false security. Bell's disillusioned students awaken from the trance, questioning and experiencing the quiet rumbling of doubt. His answer to their quiet desperation is that they "may not know *who* [they] want to *be*."<sup>64</sup>

Even lawyers consumed with billable hours and the day-to-day realities of practice life contrive a sense of satisfaction. Legal professionals experience the same lack of passion which manifests itself in the well-documented burnout, depression, unprofessionalism, and unethical behavior in the representation of clients.<sup>65</sup> In my view, this disconnection from one's personal vision and professional purpose provides justification for self-examination in concert with the practice and the study of law and, in particular, professional responsibility.

Impressively, after piecing the veil of its apparent fabrication, Bell grounds passion and places it down-to-earth. He believes, and I agree, that passion is a pervasive *energy* that is always present.<sup>66</sup> Bell recognizes the psychological implications of characterizing passion as *energy*. For instance, to illuminate the idea of passion as energy in relation to professional work, he says that when we are drawn to a certain career, it is not the career or job title (e.g., doctor, lawyer, accountant, social worker) that pulls us, it is how we "feel" when we are fully engaged in the service.<sup>67</sup> Therefore, the career—and in this instance, the law—becomes a conduit for channeling passion—the energy.

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<sup>63</sup> *Id.* at 19; *see also id.* at 75–76.

<sup>64</sup> *Id.* (first emphasis added).

<sup>65</sup> *See supra* notes 43–44.

<sup>66</sup> BELL, *supra* note 1, at 23–24.

<sup>67</sup> *Id.* at 33.

In many of us, if not most, however, passion lies dormant in our layered souls. Accordingly, Bell suggests that we must awaken our passion and unleash it. The key to this indwelling power is in knowing how to access it and how to channel it. In order to awaken passion, Bell cautions against seeking the high points—those larger-than-life moments. Hence, in professional work, the lawyer should not focus on winning the next big settlement or jury verdict, nor securing the celebrity client. As passion is ever-present, we either nourish it or deny it. A nourished passion thrives from the inside-out, while a stifled passion languishes on the surface, pacified only by quick fixes and instant gratification.

This view of passion raises another dilemma for the ethically inclined: How does one respond when passion conflicts with priority? Bell suggests that it is irresponsible to seek and follow passion without a sense of responsibility to others.<sup>68</sup> How does one draw the boundary or maintain a scaled passion? Bell offers a barometer: temper passion with responsibility to others and “common sense.”<sup>69</sup> He ends this chapter reassuring the reader that they need not place passion in a safe-deposit box and throw away the key. In fact, they cannot afford to do so because passion is indispensable to an ethical life. Refreshingly, Bell highlights the intersection of passion, success, and ethics.

Overall, what is so striking about Bell’s reflection on passion is his observation that living ethically is a *process*, a continuous work-in-progress, a journey that should be “refreshed frequently.”<sup>70</sup> Through this meditation on passion (and the entire book), Bell seeks to offer a “space for reflection” and contemplation.<sup>71</sup> His true gift is a tool, or process for self-examination, from which we can learn. Through continuous reflection, “choosing ethically” becomes natural. Tapping into passion and using it for ethical action in one’s life removes the “artificial dividing line” between work and life.<sup>72</sup> Bell’s insight from his exploration of the “false dichotomy of passion versus success,”<sup>73</sup> supports my proposal for self-integration into the practice and study of law. Lawyers bring *who* they are to the practice of law. Therefore, we have an obligation to clients to confront our identities and excavate our authentic selves. Passion has the ability to stimulate the ethical decision-making process. But self-assessment and reflection are critical to awakening passion and using it in honor of service.

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<sup>68</sup> *Id.* at 26.

<sup>69</sup> *Id.* at 31. Bell shares an insightful and funny story of how he learned this lesson from Thurgood Marshall after he (Bell) foolishly allowed his pride and passion for personal affirmation to overshadow his passion for social justice. *See id.* at 30–31.

<sup>70</sup> *Id.* at 36.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 25. Similarly, noted ethicist Professor Thomas Shaffer exposed this bifurcation of self in an article titled from a line in Harper Lee’s novel *To Kill a Mockingbird*. *See* Thomas L. Shaffer, *On Living One Way at Home and One Way in Town*, 31 VAL. U. L. REV. 879 (1997).

<sup>73</sup> BELL, *supra* note 1, at 37. Here, Bell distinguishes between passion and blind ambition. Because blind ambition is often driven by external motivators, it can look like passion and leave us feeling empty when we reach the purported goal.

### B. *Courage and Risk Taking*

Next, Bell engages the reader to consider the roles of courage and risk taking. As with his exploration of passion, Bell begins by deconstructing a major stereotype of courage. Bell states that we too often associate courage with fearlessness in part due to the distortions conveyed by popular culture.<sup>74</sup> (Certainly reality television shows such as *Survivor*, *Fear Factor*, and *Around the World* exacerbate this problem).<sup>75</sup> But in his view, courage and risk taking must always be evaluated *in relation* to fear—advancement in the face of potential negative or tenuous consequences. Bell rhetorically inquires, “. . .if we don’t fear the consequence of our action, what makes us brave or courageous for taking it?”<sup>76</sup> Action without ramifications does not represent the type of courage or risk taking necessary for ethical living or service. Hence, Bell expresses skepticism about the unexamined use of the term “courage.”<sup>77</sup> He advocates for a contextualization of courage and risk taking.

Bell defines three types of courage: (1) personal courage, (2) group courage, and (3) courage of convictions.<sup>78</sup> The most significant of the three categories is the “courage of convictions,” which he defines as “making public actions correspond to private beliefs.”<sup>79</sup> Such courage results in authenticity and a congruence that obviously contributes to confident actions. Thus, courage becomes a “consequence of *knowing your own mind*.”<sup>80</sup> In my view, self-examination is the most effective way to become intimately involved with one’s own psyche. It again requires (as with passion) a constant nurturing. Through authenticity and congruence, risk taking is a way of honoring oneself and others by standing up for what one believes is right. Thinking deeply about one’s positions, values, and ideals is a prerequisite to ethical risk taking.

While Bell addresses risk taking from the perspective of speaking out, risk taking also manifests in becoming and remaining authentic, which sets one firmly to face ethical challenges. We cannot deny that it takes courage and risk taking to advocate unpopular positions or to stand up to injustice while fearing the loss of associations, jobs, and the respect of others. However, the question remains: How does one know when to voice dissent, resist nonconformance, or acquiesce to the inconsolable swell within one’s gut? Clarity seems necessary for effective and ethical displays of courage and risk taking. In my view, one possible avenue for gaining such clarity is through self-reflection and self-

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<sup>74</sup> *Id.* at 41.

<sup>75</sup> A euphoric high follows the types of risk often portrayed in these programs. It is clear that this type of courage and risk taking is what Bell seeks to distinguish.

<sup>76</sup> BELL, *supra* note 1, at 41.

<sup>77</sup> *Id.* at 43.

<sup>78</sup> Bell describes personal courage as pure self-interest. On some level, Bell seems to prematurely dismiss the value of personal courage. Personal courage may be the bridge, however, to group courage (service of others by association) and even to the courage of convictions associated with ethical decision making. Perhaps we learn to stand up for others by first standing up for ourselves.

<sup>79</sup> BELL, *supra* note 1, at 49.

<sup>80</sup> *Id.* at 50 (emphasis added).



examination in the context of legal ethics. Such introspection builds confidence and allows openness for new ideas to emerge.<sup>81</sup>

Subtly, Bell warns of the consequences in failing to take risks. Certainly, he reveals through his own experiences the tremendous difficulty that accompanies risk taking. There is comfort in succumbing to rather than confronting authority. Many engage in voluntary servitude due to fear of isolation, retribution, ridicule, and any number of other negative consequences. Confronting authority often, Bell acknowledges that "while it felt right, it never felt easy."<sup>82</sup> However, Bell believes that when we fail to take risks in the midst of chaos and fear, we negate the "best sense of ourselves."<sup>83</sup> While his acts of courage and risk taking are inspiring, here, I would have liked Bell to acknowledge the harsh realities of making such choices. Ironically, Bell's examples of his principled resignations reflect his own privilege, which allowed him to safely make these choices. For someone like Bell, deciding to resign from his position as staff attorney at the Department of Justice or a teaching position at Harvard connotes an imbedded privilege not enjoyed by many who have convictions just as strong as his. For instance, risk taking may be much harder for a solo practitioner practicing from a strip mall office site or a young lawyer with a mounting student loan debt who finally lands a job after months of searching. Deciding to take a stand involves a different calculus that is often affected by inequities in the level of risk involved, especially when risk taking could so easily jeopardize one's livelihood.<sup>84</sup> On some level, Bell is disconnected from his own privilege in his ability to commune with his convictions in a manner that others may not.

Despite Bell's failure to acknowledge the extent of difficulty in exercising courage, I agree that remaining silent in the midst of an affront to one's values, in whatever form, festers and decomposes one's spirit, which is arguably the most detrimental consequence of failing to choose courage over conventionality. Bell insists ethical ambition demands courage of conviction despite possible consequences. When we refuse to harbor dishonesty, we sustain our sense of self, remain authentic, and foster the freedom necessary to choose courage and risk taking over conformance. Bell's suggestion that we seek to become habitual risk takers is credible. After all, it is a choice one makes. By denying matters that affect one's sense of self, an "unhealthy precedent"<sup>85</sup> for an unethical life takes root.<sup>86</sup>

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<sup>81</sup> For example, one may learn to value multiculturalism, or the various views and styles of leadership and to respectfully learn to listen to the needs of clients and others.

<sup>82</sup> BELL, *supra* note 1, at 53.

<sup>83</sup> *Id.* at 57.

<sup>84</sup> Consider the difference between Bell's positional privilege and that of an hourly grocery store employee or even a technology consultant in a depressed or competitive job market.

<sup>85</sup> BELL, *supra* note 1, at 61.

<sup>86</sup> Bell offers a sound example of what I deem ethical authenticity experienced by the noted writer-activist Alice Walker. As a young writer she received an incredible publishing opportunity. The magazine asked her to make changes to her article that essentially would have compromised her message and the integrity of her craft. She refused and responded to the magazine's persistence that she had to make the changes: "All I have to do in life is save

By exploring courage and risk taking, Bell continues to provide the stepping stones and justification for self-reflection and self-examination in the context of legal education, and specifically in the study of legal ethics. By engaging in self-discovery, students awaken to their inner truth and give conscious validity to their core in relation to the practice of law. Thus, they gain the confidence to practice courage and risk taking in the service of the profession. Self-examination becomes the corridor through which students can become their best selves and fulfill their place and purpose in the profession.<sup>87</sup> The desire for outside affirmation diminishes as inner clarity is gained and the student-lawyer develops an individualized philosophy of lawyering.<sup>88</sup> As Bell engages in this meditation, I am reminded of the last lines of the novel *Beloved* by Nobel Laureate Toni Morrison,<sup>89</sup> when the female protagonist, Sethe, begins to realize her power. Her companion observes, "You your best thing, Sethe. You are."<sup>90</sup> She responds with tentative belief, "Me? Me?"<sup>91</sup> I envision my students embracing this process of self-examination and discovering as Morrison's Sethe does that they are their "best thing," authentic and ready to pursue a self-integrative practice of law.<sup>92</sup>

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my soul." Bell highlights the proverbial quality of Walker's statement and characterizes her action as a "moment[] of self definition that set[s] the standard for an ethical life." *Id.* at 62-63.

<sup>87</sup> Courage and risk taking by students might be exemplified when the conservative Christian speaks out in class or when a gay student identifies himself in the context of a discussion on discrimination laws. Not surprisingly, students are often discouraged from risk taking by the responses they receive from their professors when they attempt to interject their authentic voices. For examples of student perspectives, see Note, *supra* note 15, at 2032; Maloney, *supra* note 44, at 324.

<sup>88</sup> "Only if we are willing to tell our own stories can we see whether the lives we lead are consistent with the vision we hold." Andrew W. McThenia, Jr., *Telling a Story About Storytelling*, 40 J. LEGAL EDUC. 67, 76 (1990). See generally Neumann, *supra* note 44. For a recent engagement on integrity in the law, see Symposium, *Integrity in the Law: In Honor of John D. Feerick*, 72 FORDHAM L. REV. 251 (2003).

<sup>89</sup> TONI MORRISON, *BELoved* (1987). Toni Morrison received the Nobel Prize in Literature in 1993. She is the first African-American winner of this prestigious award.

<sup>90</sup> *Id.* at 273.

<sup>91</sup> *Id.*

<sup>92</sup> And in fact, students already have begun to do so. In my Professional Responsibility course, I facilitate a critical reflection process for the students. In the context of developing a philosophy of lawyering, the students begin to understand that the answers to ethical and general practice dilemmas lie between the various Model Rules of Professional Conduct, requiring the exercise of judgment influenced by their identities, values, and goals. These dilemmas accentuate the tensions based on their duties as officers of the court, fiduciaries to their clients, and individuals with personal and professional values and goals. During the course of the semester and thereafter, several students have expressed that they reconnected with themselves or gained clarity of their identities, future endeavors as lawyers, and the intersection thereof. Like Bell's students, several possess a strong desire to engage in this type of reflection and to incorporate their authentic selves into their study and ultimate practice of law.

### C. Faith

Bell's reflection on faith is certainly the most intriguing and provocative in the context of the legal profession. While the subject of faith in the context of ethics and law may be intimidating given our cultural and political commitment to secularism in the legal world, Bell's approach here is inviting. His voice resembles that not of a prophet, preacher, or teacher, but a seeker—a fellow traveler on his own personal quest. At the outset, he reveals that faith has been his most powerful resource in pursuing social justice issues throughout his professional career.<sup>93</sup> Throughout this reflection, however, Bell's struggle to assess faith and its relevance to his own life is apparent. The title, *Evolving Faith*, represents the developing nature of this issue for him and he constantly refers to his faith as “evolving.” Thus, Bell allows his readers to become voyagers witnessing *his* process of unraveling the meaning of faith and its relevance to ethical living.

Using Christianity as the basis for his exploration, Bell pursues religious faith and struggles with the contradictions of dogmatic religious doctrine in the context of modern-day issues. In his view, a disconnection exists between rigid Christian doctrine and spiritual identity. Bell takes issue with the church's focus on form and ritual, and structural beliefs rather than the “development of spiritual power.”<sup>94</sup> Additionally, he shows how the Bible's literal interpretation and application have resulted in injustices like racism and sexism.<sup>95</sup> Connecting to what is perhaps a universal dilemma, however, Bell does not abandon his search. Instead, he demonstrates how we can use our religious origin and reframe its role in our *spiritual* development. Interestingly, he highlights both the hypocrisy of religious doctrine and the irony of the remaining existence and utility of faith.

To make sense of the disconnection between the meaning of faith and its relationship to Christianity, Bell relies on the teachings of the Gnostics, an early Christian sect ostracized by the Orthodox Church.<sup>96</sup> He finds solace and clarity in the Gnostic's interpretation of the Bible and the significance of Jesus. Bell's review and interpretation of the Gnostic gospels reveals that “the presence of the divine” (or God) is within each of us and the way to experience that divinity “is through *self-knowledge*.”<sup>97</sup> According to an ancient Gnostic teacher, Monoimus, the search for God specifically begins “by taking yourself at the starting point[,] [l]earn[ing] *who it is within you*.”<sup>98</sup> Thus, this focus on self-examination and self-improvement comports with the evolving nature of life and makes religion more accessible. Bell expresses wonder at the Gnostics' ability to transcend the limitations of orthodox Christianity. His relief and excitement are apparent. It is as if he has just received an offer from a driver

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<sup>93</sup> BELL, *supra* note 1, at 76.

<sup>94</sup> *Id.* at 83.

<sup>95</sup> *Id.* at 83–84.

<sup>96</sup> *Id.* at 88. For more information on the Gnostic tradition and teachings, see ELAINE PAGELS, *THE GNOSTIC GOSPELS* (1979).

<sup>97</sup> BELL, *supra* note 1, at 88–89 (emphasis added).

<sup>98</sup> *Id.* at 89 (emphasis added).

after leaving miles of dust tracks in the boil of a Mississippi summer. And the cool drink is the revelation that God (divinity) is accessible through a commitment to self-awareness; “[t]o know self at the deepest level . . . is to know God.”<sup>99</sup> There is giddiness in Bell’s tone regarding the simplicity of the Gnostic path. We witness his sense of liberation and gratitude at having perhaps found a conduit to a more fulfilling experience of his faith.

Bell’s approach is quite progressive for a man who was bred in the black church where literal application of biblical scripture was the measure of goodness and ultimate salvation.<sup>100</sup> He embraces an openness to reclaim his faith, abandoning a more sectarian and dogmatic perspective and focusing more on spirituality. While Bell begins to resolve his suspicion surrounding religious faith, I relate; but I wonder if he has lost readers of different faiths with his focus on Christianity, Jesus’s teachings, and Biblical references. He isolates his discussion in a manner that may appear off-putting to readers of different faiths or those who subscribe to no formal religious belief at all. Does the reader who practices Native religion, Islam, Judaism, or Buddhism become distracted or discouraged by Bell’s failure to even mention other spiritual paths? While arguably Bell’s discussion is universal (as he recognizes in passing fashion), the risk is that this message proves ineffective to reach the non-Christian who may find it inapplicable or simply unappealing.

While Bell’s focus on Christianity as the basis for this discussion risks alienating the non-Christian, it is consistent with the personally reflective nature of this work. He invites us on *his* evolving journey with faith and allows us to walk with him as he navigates his own uncertainties. Through his experience, the reader learns the power of faith and the necessity of a spiritual path to living an ethical life. Through his exploration, Bell demonstrates how religious tradition can serve as the starting point for a continuous exploration to spiritual fulfillment. Hence, the reader is encouraged to pursue faith in the context of life and work. Therefore, while Bell’s exploration is somewhat narrow, he models the kind of courage and risk taking from which we can learn.

Most importantly, Bell’s observations validate the relevance of spirituality (however defined) to professional and ethical endeavors. Regardless of one’s religious orientation (or lack thereof), pursuing a connection to one’s higher self via reflection in the context of professional responsibility contributes to an ethical and humane profession. What is apparent here is that a self-sustaining faith demands an attentiveness to one’s core, again a nurturing from the inside-out.

In applying Bell’s observations, a parallel can be drawn between the rigid rules-based approach of religion (a set of “[d]os and don’ts to be obeyed rather

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<sup>99</sup> *Id.*

<sup>100</sup> Bell was raised in African-Methodist-Episcopal (AME) and Presbyterian churches. His roots in the black church are evident throughout the chapter. Bell explains the close connection between his religious faith and gospel/spiritual music. Interestingly, Bell wrote at length about gospel music and its transformative power in his book, *Gospel Choirs: Psalms of Survival in an Alien Land Called Home*. See also Kevin L. Hopkins, *A Gospel of Law*, 30 J. MARSHALL L. REV. 1039 (1997) (reviewing *Gospel Choirs*).

than questions to be asked and answered on a daily basis"<sup>101</sup>), and legal doctrine and education. In pursuing faith, Bell illustrates a methodology worthy of embracing in the context of legal analysis; that is, to remain conscious of the spirit underlying the various doctrines used to solve legal issues. Such an approach would foster justice in the contextualization of interpreting law, presenting policy arguments, and creating new law. Instead of blindly applying the law as technicians, lawyers become more creative problem-solvers and thus better advocates for their clients.

The preoccupation with rules, rigid interpretations, and structure in the religious context as identified by Bell also resonates with the approach to professional responsibility courses. With so much emphasis on the Model Rules of Professional Conduct and the state equivalents, the focus of ethical decision-making becomes form over substance with an embedded temptation to engage in rule manipulation. Thus, the rules and structure become masks behind which we "pretend we are ethical and humane."<sup>102</sup>

Bell's insights demonstrate that the resolution of such dilemmas must reach beyond the Model Rules. Instead of looking to the rules of ethics in isolation, we can engage in an exploration of the spirit of being a lawyer. In that quest, the inquiry includes consideration of the broader purpose of client representation and fosters the lawyer's connection to the profession. Thus, a lawyer brings her *whole* self to bear on ethical decisions. Through a more self-reflective exploration, what emerges is a new framework for solving ethical dilemmas, practicing and living as a productive and effective member of the profession.<sup>103</sup>

#### D. Relationships

In this chapter, Bell explores how personal relationships complement as well as challenge a commitment to ethical living. His premise is simply that intimate relationships with family, friends, students, and colleagues serve as barometers that keep us honest. Such connections serve as a preceptorship of sorts. It is through such intimate partnering that Bell believes we develop empathy through mutual respect, and humility by practicing sensitivity. Thus, our unions with others serve as training grounds for the broader work in our

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<sup>101</sup> BELL, *supra* note 1, at 92.

<sup>102</sup> *Id.* at 93.

<sup>103</sup> This chapter of *Ethical Ambition* raised the question of whether there is a theology to the practice of law, an intersection that would include an inquiry into the vocation of the law and the perspective from which lawyers engage in their professional endeavors. A recent symposium engaged in this inquiry. See Symposium, *The Theology of the Practice of Law*, 53 MERCER L. REV. 985 (2002). Scholars are raising these issues in the context of legal analysis and particularly legal ethics. See, e.g., JOSEPH G. ALLEGRETTI, *THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* (1996); THOMAS L. SHAFFER, *ON BEING A CHRISTIAN AND A LAWYER: LAW FOR THE INNOCENT* (1981); Steven H. Hobbs, *The Lawyer's Duties of Confidentiality and Avoidance of Harm to Others: Lessons from Sunday School*, 66 FORDHAM L. REV. 1431 (1998); Peter J. Riga, *Spirituality of Lawyering*, 40 CATH. LAW. 295 (2001); Kenneth A. Sprang, *Holistic Jurisprudence: Law Shaped by People of Faith*, 74 ST. JOHN'S L. REV. 753 (2000); Symposium, *The Relevance of Religion to a Lawyer's Work: An Interfaith Conference*, 66 FORDHAM L. REV. 1075 (1998).

communities and professions. Bell probes, "[I]f we cannot behave ethically overall toward the person with whom we have chosen to share our lives, what real value can there be in the show of ethical behavior toward others?"<sup>104</sup> Therefore, a consistency must exist between the person we embody at home and the one we present to the world.<sup>105</sup>

In characteristic fashion, Bell honestly shares some details about his relationship with his first wife, Jewel, without whom he professes his pioneering work at Harvard and beyond would have been impossible. What is refreshing here is Bell's willingness to acknowledge how that relationship assisted him in his success, strengthening him in precarious and delicate moments.<sup>106</sup> The bottom line is that intimate unions connect us to our authentic selves by forcing us "to connect with [our] humanness."<sup>107</sup>

Notwithstanding that relationships can greatly enhance one's personal and professional lives, Bell reminds us that "shared intimacy"<sup>108</sup> requires constant nurturing, compromise, and honesty. To sustain healthy relationships, Bell advocates balance. Without balance between work and family (or other intimate relationships), we become workaholics. Agreeing with Professor Patrick J. Schiltz, Bell equates "workaholism" with unethical conduct.<sup>109</sup> He has first-hand knowledge of the addictiveness of work which he experienced throughout his practice and academic career. Bell reflects on how his preoccupation with civil rights work resulted in him missing the birth of his third child and leaving less than one hour after the birth of his second.<sup>110</sup> Through these riveting disclosures, he opines that a passion for justice in work can consume one's life in the same unhealthy and unethical manner as professional endeavors driven by money.<sup>111</sup>

A story Bell shared in the conclusion of the book epitomizes his insight. Specifically, he reveals Jewel's reaction to his plans to take a leave without pay to protest Harvard's failure to hire a woman who was a person of color to the faculty. She questioned, "Why does it always have to be *you*?"<sup>112</sup> Recognizing the pattern of their dance, he knew that her expressed reservation was perhaps a call to reconsider. Despite his wife's failing health, which would claim her life only four months later, and the pleas from some of their friends, Bell proceeded with his protest.<sup>113</sup> Without questioning the wisdom of that decision, Bell's actions could be categorized as "unethical" even under his own definition.

<sup>104</sup> BELL, *supra* note 1, at 108.

<sup>105</sup> See SHAFFER, *supra* note 103, at 32 (acknowledging this dilemma and advocating for congruency).

<sup>106</sup> BELL, *supra* note 1, at 101. While he shares in the context of a heterosexual marital relationship, Bell consistently acknowledges throughout the chapter that any "committed relationship" including same-sex relationships provide the support from which we develop and sustain a life based on integrity and morals. *Id.* at 96–97.

<sup>107</sup> *Id.* at 98.

<sup>108</sup> *Id.* at 107.

<sup>109</sup> *Id.* at 112–16; see also Schiltz, *supra* note 44, at 937–38.

<sup>110</sup> BELL, *supra* note 1, at 114.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 169 (emphasis in original).

<sup>113</sup> *Id.* at 170.

Interestingly, Bell begins the book cautioning readers that pursuing passion and justice must be tempered with responsibility and duty to family. While Bell's action at that time may appear insensitive, selfish, or even unethical, the real tension in living a life committed to one's passion without martyring loved ones is salient.

Bell's choice here exemplifies how the law (or any professional or personal endeavor for that matter) can become all-consuming. His actions also reveal the power of the "lawyer" personification and the intersection of one's identity and role as a legal professional.<sup>114</sup> In my view, for instance, a lawyer's embodiment of the professional role converges with personal identity such that the two become inseparable, or more profoundly, the role of advocate begins to overshadow one's individuality. This hyperbole of role in relation to identity results in a shift in self-perception and purpose. Thus, lawyers begin to define themselves in relation to the quest for justice or other professional endeavor to a degree that annihilates their truth and their relationships in unhealthy ways. Even Bell, when faced with his wife's terminal illness, seemed unable to fully appreciate the degree to which his public and private lives are separate spheres. Perhaps his maleness also contributed to his ability to compartmentalize, unable to separate and integrate his personal and professional roles.

Nonetheless, there is a lesson in Bell's story and a justification for developing the skill of reflection through self-examination. In the midst of trying to live ethically by taking principled stands and to integrate into the profession, lawyers consolidate role and identity, sacrificing and negating the essence of who they are. Perhaps self-reflection is a solution to learning ethics from the inside-out and incorporating and balancing the lawyer's role with personal identity.

As lawyers, it is important to develop positive relationships with clients. Perhaps a lawyer's vision of the case or suggested strategy fails to coincide with the client's needs. Thus, the lawyer must remember *whom* she represents and engage in representation with "greater thoughtfulness," as Bell advocates. This attentiveness often reaps better results in a manner that preserves the client's self-perception and dignity. In essence, a role transformation can occur in the lawyer's work: from one of advocate to facilitator of change, and even to healer. I do not advocate a kind of emotionalism that disrupts the objectivity needed for effective lawyering. It is crucial, however, that lawyers and students understand and develop the skill of reflection, and appreciate the value of integrating it into the analytical and problem-solving processes of lawyering.

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<sup>114</sup> Ethicist Thomas Shaffer explores this tension in an article wherein he states:

If I close my eyes and imagine a lawyer, I expose myself to a *role*. If I close my eyes and see me, I expose myself to an *identity*. And if I close my eyes and see myself as a lawyer, I expose myself to the conflict between my role and my identity. The role concept is sociological—seen from the outside in; the identity concept is psychological—seen from the inside out.

Thomas L. Shaffer, *Christian Theories of Professional Responsibility*, 48 S. CAL. L. REV. 721, 731–32 (1975) (emphasis in original); see also Thomas L. Shaffer, *The Moral Theology of Atticus Finch*, 42 U. PITT. L. REV. 181 (1981).

One important way to foster the skill of reflection is through self-examination and contemplative practices such as mindfulness<sup>115</sup> and self-awareness.

Additionally, Bell acknowledges the role that colleagues play in developing ethical behaviors.<sup>116</sup> His self-perception as an outsider radiates here as Bell acknowledges the strain one's ethics place on relationships with colleagues.<sup>117</sup> A particular distance and objectivity exists in collegial relations generally unavailable in most familial situations. Without the "emotional baggage"<sup>118</sup> of more intimate relationships, Bell believes one experiences more clarity of action of what one believes to be right and wrong.<sup>119</sup> While this provides some relief in taking ethical stands, Bell cautions against pursuing ethics with blindness to the view of dissenters.<sup>120</sup> Based on his own experiences, Bell seems to acknowledge how individual autonomy and subjectivity can thwart the establishment of meaningful collegial associations. Such unyielding subjectivity often blocks creative problem solving and necessary coalition building.

I agree with Bell's premise that living an ethical life is not a solo journey. Intimate unions, friendships, and collegial associations force an externalized focus which facilitates ego management. Relationships provide a different lens through which to view the world and ourselves, sharpening senses and clarifying vision. The estrangement from one's humanness wanes and gives way to renewed kinship with one's spirit. Surprisingly, however, Bell does not discuss more explicitly the necessity of developing relationships with those unlike one's self. In addition to establishing healthy balanced relationships with families,<sup>121</sup> we have a responsibility to develop connections with those of different genders, races, ethnicities, socio-economic backgrounds, religions, and political ideologies.<sup>122</sup> This personal and professional responsibility extends to embracing multiculturalism.<sup>123</sup> While forging such associations may present unique challenges and an overall discomfort, we must fight the temptation to avoid the effort of doing so. If we are to truly live ethical lives characterized by taking principled stands as Bell advocates, then we must give more than perfunctory consideration of the "others." Without it, we become vulnerable to our own unyielding subjectivity that conceals bias, hinders discernment, and obscures self-perception.

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<sup>115</sup> For an overview of how mindfulness meditation might contribute to legal and dispute resolution education, see Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients*, 7 HARV. NEGOT. L. REV. 1, 13 (2002); see also <http://www.contemplativemind.org> (last visited Feb. 21, 2005) (a website describing a contemplative program offered to students and faculty at Yale Law School).

<sup>116</sup> BELL, *supra* note 1, at 122–24.

<sup>117</sup> *Id.* at 122.

<sup>118</sup> *Id.* at 123.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at 124.

<sup>121</sup> See generally, self-help references, *supra* note 3.

<sup>122</sup> See generally, Critical Race Theory references, *supra* note 26.

<sup>123</sup> *Id.*



*E. Ethical Inspirations*

Sharing the role models from whom he has drawn inspiration, Bell gives examples of iconic figures such as Martin Luther King, Jr., Medgar Evers, W.E.B. Dubois, Paul Robeson, Muhammad Ali, and Gandhi. He drew inspiration from the protest-based actions of these and others who worked tirelessly to end racial segregation and human rights oppression. Certainly, the inspiration one can draw from the lives of these individuals is fairly obvious; however, iconic role models are often far too distant and unattainable. Ironically, while they inspire us, they also disable us from achieving our goals because of the widespread impact of their contributions; we doubt our ability to measure up to Martin Luther King, Jr., for example. Thus, iconic role models are not enough, and Bell obviously senses this as well.

Also understanding the dissociation for students with iconic figures, many of whom fought for causes seen in many circles as “passé,” Bell highlights current models who have taken recent stands to which many can more easily relate. For instance, he lauds the efforts of Congresswoman Barbara Lee who placed the lone vote opposing giving the Bush administration the broad power to fight terrorism with war;<sup>124</sup> Dr. Jeffrey Wigand, a tobacco executive, who testified and exposed his superiors’ dishonesty about the cancerous effects of smoking;<sup>125</sup> and Professor Linda Bensel-Meyers, who challenged a tutorial program at the University of Tennessee that she believed handicapped and exploited athletes.<sup>126</sup> For Bell, these individuals serve as inspiration because of their courage to voice ethical but unpopular positions despite the risks to their personal comforts. Many lost their jobs, friends, spouses, and the camaraderie of colleagues.

While the stories alone are powerful, there is a consistency in their experiences—an agony of the spirit *before* the actions were taken. From Martin Luther King, Jr. to Professor Linda Bensel-Meyers, a reflective process preceded the action. In fact, many of Bell’s models engaged in soul-searching, dialogued at length with family and friends, or relied on their faith in mustering the strength to take the stand. What is instructive here is that none took action without deliberation mired by some angst, toil, or anguish. Bell makes it clear that following one’s conscience in the face of dissenting viewpoints is no easy task.

Despite the inherent risks, what drives individuals to take the positions they deem necessary? This is where several of Bell’s principles seem to converge—driven by passion, comforted by faith, we gain the courage to follow our conscience. And conscience is a function of self-perception fostered, on some level, by reflection and self-examination. From that perspective, perhaps one can reconcile the viewpoints and actions of those in opposition as exercises of their freedom to remain authentic to themselves based on their impressions of who they are and what they seek to pursue. And therefore, in

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<sup>124</sup> BELL, *supra* note 1, at 134–35.

<sup>125</sup> *Id.* at 150–51.

<sup>126</sup> *Id.* at 152–54.

taking ethical stands, we are not dissuaded by resistance or paralyzed by fear of reprisals.

Whether iconic figures, fictional characters in films and novels, or the common heroes of our everyday lives, lawyers and law students need to have models from which they derive motivation to make choices informed by conscience. Such authenticity is the capstone to integrating personal identity into the various areas of professional life. Unknowingly, or at least with modesty, Bell serves as an inspiration as well, through his ardent and consistent transparency in this work. Moreover, his message presents an incredible opportunity for law professors, senior lawyers and judges to serve as mentors to law students, associates and law clerks, respectively. By modeling professionalism and engaging transparently, law professors and senior lawyers contribute to the self-esteem of students and junior lawyers and support a movement towards a self-integrative practice of law.

#### *F. Humility's Wisdom*

In exploring this last principle, Bell gives us a prescription for confronting the egoism that often results from the determination and drive to promote social justice. The captivating nature of the work of lawyers on behalf of others sometimes results in an unrestrained pursuit of subjective rightness. Armed with the legal knowledge and skills to effectuate change and faced with wounded and impressionable clients seeking reparation, a lawyer becomes a potential liability to reform and to the advancement of client needs. Since social change occurs slowly if at all, a lawyer becomes distracted, mired in the fight and forgets the battle.

Bell homes in on the pretentiousness that sets in from the "lawyer" persona—a "white knight" phenomenon in which the lawyer, convinced that she has the right answers, misapprehends, distorts, or even ignores the client's objectives. Illustrating the danger of self-absorption, Bell reflects on his involvement in school desegregation cases during the civil rights movement. He recalls pushing the desegregation strategy as the only means for equity in education for black children.<sup>127</sup> Despite the strong reservations of the parents and the economic and physical risks, Bell recalls how his commitment convinced him that he was "doing God's work."<sup>128</sup> Accordingly, he proceeded in a blind stupor of the broader implications of the strategy and the feelings and needs of the parents. Bell shares an epiphany he had many years later while involved in yet another desegregation case. As he witnessed a replay of the same tactics he had pursued many years earlier, Bell grasped the slow and painful journey of the pursuit for social justice.<sup>129</sup> The reader senses Bell's pain

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<sup>127</sup> *Id.* at 155–59. Bell more recently reflected on school desegregation in DERRICK BELL, *SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM* (2004).

<sup>128</sup> BELL, *supra* note 1, at 157.

<sup>129</sup> *Id.* at 157–64.

as he reveals, with a hint of embarrassment, how long it took him to learn the value of listening to his clients.<sup>130</sup>

The angst that develops into a "troubled conscience"<sup>131</sup> becomes in Bell's view an "indispensable"<sup>132</sup> component for ethical ambition for anyone committed to social justice. The "troubled conscience" forces a continued reflection and a reconnaissance of the soul. "We need to look in the mirror frequently and remind ourselves that our good intentions . . . do not endow us with either the certainty of victory or any perfect sense of what those for whom we labor will consider victory."<sup>133</sup> Without subjecting our lives, motives and work to strict scrutiny, it becomes impossible, according to Bell, to remain "ethically related to the real needs of those we wish to serve."<sup>134</sup>

After reflecting on the "white knight" phenomenon, Bell explores the other end of the spectrum—the exhaustion and disillusionment manifested by feelings of hopelessness in the fight for social justice. The power of the lawyer-persona becomes exacerbated when those who work for social reform evaluate their work based on notions of winning and perfection. When doubt arises, advocates ask themselves: Why work to eradicate injustice when discrimination, poverty, homophobia, sexism, and classism remain constants in our society?<sup>135</sup> Or, more generally, why take ethical stands when such acts are discredited or even ignored? Here, Bell attempts to contextualize failure by reframing it as humility. He gives those with social justice predilections some solace in the notion of failure or slow progress. According to Bell, failure is inevitable, but with humility—conscious connection to one's knowledge and the dilemma—one can relinquish the tendency towards rigidity and approach work and clients with an awareness that the struggle is larger than the present.<sup>136</sup> Thus, humility allows us to learn from mistakes without forfeiting the joy of living.

While Bell's message appears directed to those interested in public interest law or social reform, his perspectives on humility and the need for continued critique of actions, motives, and mistakes have universal implications. Perhaps unintentionally, Bell's message seems monotonous to those not predisposed or interested in working for social justice. His insight and his message are important and timely, however, for those pursuing corporate agendas or other private interests as well. The "white knight" complex should not follow those lawyers through the doors of corporate offices. Although his advice to replace rigidity with flexibility seems somewhat counterintuitive for a profession that is

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<sup>130</sup> *Id.* at 167. For another scholar's account of a similar lesson regarding distortion of client objectives and the value of listening to clients, see Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1, 45–48 (1990).

<sup>131</sup> BELL, *supra* note 1, at 159.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* at 160.

<sup>134</sup> *Id.* at 161. Similarly, Woodson observed that the de-contextualized training of African-American lawyers, in particular, resulted in their disconnection from those they would ultimately serve. WOODSON, *supra* note 2; see also RHODE, *supra* note 38, at 185.

<sup>135</sup> BELL, *supra* note 1, at 161–66.

<sup>136</sup> *Id.* at 164–65.

based largely on the objective application of legal principles, Bell's admonition of continued examination is admirable. Self-reflection is a tool that can assist lawyers and law students to gain the clarity needed to actively listen to clients, to balance their egos and to remain vigilant despite setbacks or delays in progress. Bell's insight that humility provides a space for self-awareness and authenticity is powerful. Lawyers learn to listen to their clients by first listening to themselves.<sup>137</sup> By engaging in self-examination, lawyers and law students learn to "listen and respond to what is actually happening, being said, being felt,"<sup>138</sup> as opposed to their perception of what should be happening.

#### IV. FRAMEWORK OR FANTASY LAND?

##### *A. Can Bell's Principles Really Support a Self-Integrative Practice of Law?: An Invitation to Dialogue and Answers to Some Initial Questions*

Based on Bell's honest and reflective writing, readers might well have been inspired or prompted to engage in their own self-assessments. Bell's style in *Ethical Ambition* evokes a visceral reaction by exploring such personal and characteristically emotional virtues as faith, passion, and humility. On the other hand, offering Bell's work as a roadmap to transforming how we train student-lawyers and engage in the practice of law presents a complex proposition that may invite some criticism. Granting my attraction to Woodson's theory and Bell's model, I nevertheless acknowledge that there are several practical and rational constraints in using these concepts to guide the refocusing of legal education and thereby treating the ills of the profession. However, the legal institution can no longer afford to exist in denial of the documented and anecdotal realities of lawyer dissatisfaction, incivility, and unethical behavior. Thus, this is an invitation to the entire spectrum of the legal enterprise—new law teachers, mid-level academics and tenured colleagues, practitioners, administrators, and even the public—to begin thinking about how we can solidly incorporate Bell's framework and model of self-examination into legal education and the profession.

Struggling with the challenges of my proposition and envisioning our conversation, I have pondered several questions, which I will now address.

*Is this about fully transforming the current model of law school curriculum and legal education?* Yes and no. I do not posit that a full model transformation is necessary, nor do I dismiss that possibility. Certainly, I envision that a significant portion of the legal education process still will involve reading and analyzing cases and developing lawyering skills. However, a significant difference is the students will have a personally contextualized understanding of *why* they are developing such competencies. Thus, I advocate a paradigm shift from a legal education and practice model focused on technical rationality to one that focuses on the development of student-lawyers from the inside-out;

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<sup>137</sup> See James R. Elkins, *Lawyer Ethics: A Pedagogical Mosaic*, 14 NOTRE DAME J.L. ETHICS & PUB. POL'Y 117, 196 (2000).

<sup>138</sup> BELL, *supra* note 1, at 165.

simply, training “whole” persons. As a law teacher at Seattle University School of Law, this inquiry is particularly relevant to and consistent with the school’s Jesuit Catholic mission of developing lawyers poised to lead with integrity and compassion. In this religious tradition, holistic education of lawyers has long been seen as central to promoting ideals of justice and value-laden decision making.<sup>139</sup>

Thus, such repositioning or redirection need not involve wholesale restructuring necessarily. Perhaps an acknowledgement that self-examination matters in the context of legal education and law practice is the best and the fairest place to begin. Such recognition would legitimize the discussion of personal values, virtues, self-identity, and other self-integration perspectives in the classroom.

Like other professors who have attempted to inject such issues in the analysis of substantive legal and ethical problems, I have experienced tension in seeking to engage students in discussions beyond the legal doctrine in both my first-year Torts class as well as my Professional Responsibility class, a suitable context for discussing such issues. Yet, like Bell, I have witnessed students struggle over why they are in law school, with their identities, and with how insights gained from these struggles inform or transform their future goals and endeavors.

During my years of practice, I observed lawyers pursue paths in the name of client service that neither promoted the client’s position nor comported with the lawyer’s persona.<sup>140</sup> Most lawyers have jokingly laughed when I have asked whether they participated in such discussions or received encouragement to think of their own personal visions in relation to the law. The tragedy lies in the acceptance and expectation that no place exists for such considerations in the profession. Overall, acknowledgement that self-discovery and self-examination are a part of the process of becoming and being a lawyer would normalize the relevance of the “individual” student-lawyer in the legal process and validate those of us who seek to support students in this significant quest in the context of legal education and the practice of law.<sup>141</sup>

*In the context of professional responsibility, is this about teaching the students values?* No, it is about the students fully realizing their own moral values within the legal profession.<sup>142</sup> Students and lawyers come to the study and practice of law, respectively, with their own sources of value and precepts based on those values. What is needed, however, is a legal education process

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<sup>139</sup> See SEATTLE UNIV. SCH. OF LAW, MISSION STATEMENT, <http://www.law.seattleu.edu/mission?mode=simple> (last visited February 21, 2005).

<sup>140</sup> For other examples and discussions of the disconnection between lawyers’ philosophies of living and lawyering, see generally KEEVA, *supra* note 42; Shaffer, *supra* note 72; SHAFFER, *supra* note 103; Shaffer, *supra* note 114.

<sup>141</sup> See RHODE, *supra* note 38, at 201 (opining that the enterprise takes a “minimalist” approach to professional responsibility which “marginalizes its significance”). Observing that “[s]omething distinctly bad is happening to the students in our law schools,” one scholar questions why law faculty fail to have discussions of these issues throughout the academy. Krieger, *supra* note 44, at 115.

<sup>142</sup> In *The Republic*, Plato subscribed to a similar view relating to the prisoners bonded in the cave in his allegory. 2 PLATO, *supra* note 6, at 135.

that provides a platform from which the student-lawyers might conceptualize themselves in relation to the law. Such a perspective would reinforce that *who* they are as lawyers matters as much as legal competency.<sup>143</sup> A professional responsibility course is certainly an ideal place to pursue these issues. With the exception of a few law schools, however, students take a professional responsibility course in their second or third year of law school. By that time, the student-lawyers have received core doctrinal learning and a conceptualization of the law devoid of their personhood.<sup>144</sup> Certainly, the law is multifaceted—a political, sociological, and cultural artifact. Similarly, the student-lawyers are multifaceted. Ironically, many have been indoctrinated with ideals that emotional intelligence is suspect and misplaced in the law long before they take a professional responsibility course.<sup>145</sup> Thus, this de-selfing begins early and is consistently reinforced by legal education and the profession. While a legal ethics course provides an ideal venue to engage in self-reflective discussions, this concept goes beyond a course in ethics.<sup>146</sup> Bell's *Ethical Ambition* exemplifies that it is no longer necessary to confine such issues to professional responsibility courses. A shift to a reflective and self-integrative approach to legal training affords students an overall authentic relation to the practice of law. Additionally, they develop into morally sophisticated legal advocates and counselors.<sup>147</sup>

*Is this beyond the expertise of a law professor? Is there a place for this in the current framework of legal education?* Assuming the value of developing whole persons, then the question becomes, why has the legal academy neglected to focus on the development of the student-lawyer? A practical question might be: Who would provide this type of training to the students? I envision a colleague responding, "I'm a law professor, not a psychotherapist. I do not possess the expertise to facilitate such an introspective engagement." Responses may also vary based on how one is positioned. For instance, a new

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<sup>143</sup> Research shows that law school education can influence some ethical behavior patterns. Significantly, "well-designed courses can improve capacities for ethical reasoning." RHODE, *supra* note 38, at 202.

<sup>144</sup> Law schools could add more courses in legal ethics into the curriculum, including courses in legal professionalism in the first year. A model worth evaluating is that of the Notre Dame Law School, which requires more credits in professional responsibility-related courses than any other and fosters the students' development with such courses in the first year. For a similar proposal, see Schechter, *supra* note 43, at 393.

<sup>145</sup> See, e.g., Krieger, *supra* note 44, at 125 ("Law students get the message, early and often, that what they believe, or believed, at their core, is unimportant—in fact 'irrelevant' and inappropriate in the context of legal discourse. . . ."); see also Note, *supra* note 15.

<sup>146</sup> See generally RHODE, *supra* note 32.

<sup>147</sup> Several scholars have engaged with the intersection of moral values, personal values, and the practice of law and have developed ethics course texts which engage students in the inquiry as well. See, e.g., NATHAN M. CRYSTAL, PROFESSIONAL RESPONSIBILITY: PROBLEMS OF PRACTICE AND THE PROFESSION (3d ed. 2004); JAMES E. MOLITERNO, ETHICS OF THE LAWYER'S WORK (2d ed. 2003); THOMAS L. SHAFFER, AMERICAN LEGAL ETHICS: TEXT, READINGS AND DISCUSSION TOPICS (1985); RICHARD A. ZITRIN & CAROL M. LANGFORD, LEGAL ETHICS IN THE PRACTICE OF LAW (2d ed. 2002); RICHARD ZITRIN & CAROL M. LANGFORD, THE MORAL COMPASS OF THE AMERICAN LAWYER: TRUTH, JUSTICE, POWER, AND GREED (1999).

law teacher might profess a lack of time to engage on this level; after all, promotion and tenure are imminent. A more experienced law teacher may decide that incorporating such a perspective into the curriculum requires more adjustment to well-developed doctrinal course material. Perhaps tenured colleagues who have mastered the art of teaching and scholarship may view this perspective as "soft" and inherently devaluing the role of the law professor. Moreover, even those colleagues who harbor some commitment to helping students develop in this manner may simply opt to engage in casual mentoring of select students.<sup>148</sup> And those who have served on curriculum committees may laugh at the notion of changing the entire institution's consciousness, given how it took their committees four years to streamline first-year torts from four credits to three. Clearly, there are constraints in what is already a labor-intensive process.

Notwithstanding the challenges, the resistance represents a sense of normalcy and comfort in a de-personalized law school experience. As one legal scholar notes, perhaps it is our "[d]enial [that] prevents us from coming to terms with what is going on before our very eyes."<sup>149</sup> But Bell's and Woodson's works evidence that this disposition is mere illusion. If their views are accurate, then the legal academy has traded producing less effective lawyers for its personal comfort.

I acknowledge these practical constraints. In fact, as a new professor I am consumed with becoming a better teacher, engaging in scholarly endeavors, developing my course material, and learning the political landscape of the legal academy. Certainly, "[l]egal education has multiple constituencies with competing agendas and demanding expectations."<sup>150</sup> However, we also have a professional responsibility to our students and the profession to ensure their overall development. "Any serious commitment to improvements in the practice of law and the regulation of lawyers must start in law school," as scholar Deborah Rhode has noted.<sup>151</sup> Thus, we must find creative ways to train the *whole* student. For instance, the legal academy could engage in interdisciplinary ventures with other professionals, such as psychologists, to assist us in facilitating this process, an idea explored more than thirty years ago.<sup>152</sup> Perhaps it begins by each law teacher incorporating small threads of

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<sup>148</sup> While mentoring provides an effective way to support students in their personal and professional development throughout law school and even in practice, all students do not receive this level of engagement, if at all.

<sup>149</sup> Krieger, *supra* note 44, at 112 (quoting ANNE W. SCHAEF & DIANE FASSEL, *THE ADDICTIVE ORGANIZATION* 62 (1990)).

<sup>150</sup> RHODE, *supra* note 38, at 186. Rhode further recognized that the various constituencies (including faculty, students, consumers and university administrators) "push schools in different directions." *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> Collaboration with psychologists or other behavioral and social science specialists would provide the expertise, training, and legitimacy of the importance of the development of these competencies in the law school experience. This idea was explored more than thirty years ago by Andrew Watson, who was both a law professor and a psychiatrist. See, e.g., Andrew S. Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 U. CIN. L. REV. 91, 153-55 (1968).

context in the classroom, gathering with colleagues at faculty brown bags to dialogue about these issues, engaging in self-discovery/examination as Bell models, or simply reading *Ethical Ambition* with a broader lens to fully grasp the essence of my proposition.<sup>153</sup>

Any response that my proposition is somehow unattainable is unacceptable. The conspiracy of silence deepens as we continue to deny the malaise of the legal profession and ignore the student-lawyers in legal training.<sup>154</sup> In our silence, we model to students how they should prioritize and view themselves in relation to the law. Taking their cues from the legal academy and profession, students learn to devalue any consideration of themselves, which manifests in the ways they engage with professors and other students and harbor negative attitudes towards ethics courses, for example.<sup>155</sup> Moreover, our denial enables practitioners to continue their detached and inauthentic manner of lawyering.

### B. *The Payoff*

Assuming the legal enterprise deems as a priority the development of *whole* human beings equipped to provide excellent service, make ethically sound choices, and sustain the personal and professional realities of practice, the benefits are numerous:

1. Without a doubt, we will produce more effective lawyers. Students, clear about *who* they are and their places in the law, enter the profession with more than a package of doctrine and skills. Students will emerge with a philosophy of lawyering—a true conditioning to sustain them in the practice of law and to guide them through ethical dilemmas. Perhaps they will become happier, healthier, and more ethical individuals and lawyers.

2. Clients of all levels will benefit from the increased self-awareness gained by the student-lawyer. Additionally, cultural understanding (or at least an openness thereto) is a byproduct of self-awareness. Thus, communities of color or other marginalized populations might be better served by a growing cultural competence of those in the legal profession.

3. Student-lawyers become more than legal technicians. They develop as reflective practitioners informed by their personal values, spiritual traditions, cultural references, and personal experiences.

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<sup>153</sup> See Filippa Marullo Anzalone, *It All Begins with You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 24 HAMLINE L. REV. 324 (2001) (discussing the role of the law professor in modeling self-reflection and offering suggestions for such engagement).

<sup>154</sup> Our denial and ensuing silence “sends a powerful message.” RHODE, *supra* note 38, at 201.

<sup>155</sup> See McThenia, *supra* note 88, at 68 (“Students play into the process by denying that they had a life before law school. They think they can shed their old stories just as a snake sheds its skin and become ‘lawyers’ without acknowledging that they are also mothers, fathers, English majors, or flute players.”); Krieger, *supra* note 44, at 118 (commenting that students learn to “inhibit the expression or consideration” of themselves and suppress their “inborn capacities.”); see also RHODE, *supra* note 38, at 200–01.



4. Student-lawyers will be better positioned for leadership with a global perspective.

5. With greater self-awareness, lawyers can minimize the stifling of meaningful and productive conversations about hard issues like class, race, and unconscious bias in our laws, adjudicative processes, and amongst members of the legal profession.

6. Self-identification and self-examination promote law reform. Student-lawyers encouraged to value their personhood in the context of the law will experience the freedom necessary to engage in creative problem solving. On some level, law reform emerges from a connection to one's self and others. Such transcendence occurs with self-discovery and promotes an authentic relation to the law.

## V. CONCLUSION

As the prisoners in Plato's allegory in *The Republic*, we in the legal academy and the profession, all fellow cave-dwellers, are trapped by our limited perspective that there exists little or no room for self-reflection and emotional intelligence in the law. Through his transparency in *Ethical Ambition*, however, Bell leads us towards the light and enables us to begin to discern reality from the shadows of our narrow vision. Through Bell's brave self-reflection, he shows us the value of self-examination and models how we might engage and incorporate it into legal training and the practice of law.

If we continue to focus on the shadows, we fail to acknowledge a greater reality—reconnecting with the roots of the profession, recognizing that the law encompasses more than rules and technical rationality, and reviving a profession suffocating from psychological and cultural distress. As legal ethics scholar Deborah Rhode has suggested, real change on this front is “impossible unless we change how entering lawyers think about their professional roles and responsibilities.”<sup>156</sup> A self-integrative approach to law is not about losing or minimizing analytical competencies, but sharpening and contextualizing them for the student-lawyer personally. This is about training full human beings—those who enter the profession strong in mind, body and spirit.

We in the legal academy have resisted the light long enough. As Bell's and Woodson's works recognize, context matters. Perhaps this begins with openness to something broader, an acknowledgement that the profession is in crisis and that the legal academy and the profession can do something about it, even if incrementally. Trailblazers like Bell and Woodson have courageously modeled the path. Now it is up to us (lawyers, law faculty, judges and students) to exemplify the kind of courage and risk taking necessary to embrace and foster a new paradigm.

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<sup>156</sup> RHODE, *supra* note 38, at 186.